

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
Eugene, Oregon Division

Wells Fargo: external attorneys
lied, cheated and stole from us
and tried to hide it. They failed.

Andrew Clark, Plaintiff
3270 Stoney Ridge Rd.
Eugene, OR 97405 541.510.3915
OperationSunriseLaw@gmail.com

Civil Complaint Case: 6.cv-20-253-aa

Motion for Judicial Notice of Adjudicative Facts
Per Federal Rules of Evidence 201(b)(2)
and Clarification of "Claim for Relief"

Wells Fargo and Company
420 Montgomery St. San Francisco, CA 94163
as Voluntary or Mandatory
Intervenor for Plaintiff
(Subject to FRCP 24)

March 18, 2020 Crime Report to Billy Williams,
U.S. Attorney for Oregon. (8 Page Exhibit)
Hand-Delivered at Eugene Office and filed with
Court as Correspondence.

vs. Defendants:

This Motion Filed March 26, 2020

Wells Fargo Bank et al

**Motion for Judicial Notice of Adjudicative Facts
and Clarification of Claim for Relief**

My complaint accurately summarized what each Defendant did (or failed to do) that caused and concealed the root crime of the enterprise. No corporate crime is more rare and serious than physically tampering with a federally-insured bank worker with two active federal investigations in process who had also been admitted to local FBI to deliver crime reports due to indications of retaliation. The nature of the tampering is violent and ghastly as I describe.

Such cases get prosecuted similarly to a lurid case of aggravated murder only with more vengeance and a much wider net, which is why so many Defendants are listed. Most of you helped conceal it because you were lied to by the perpetrators (or by others they coerced or influenced.) In my case, special attention should be given to complete role of Defendant Erik Hasselman. Special attention must be given to what motivated him or coerced him because his personal involvement and subsequent corruption of all controls is absolutely epic for a Major Violent Crimes Prosecutor.

An employee in our local 'pre-trail services' office named "Brian Snazo" supervises the Risk Assessment Tool (RAT) in Lane County. He and the RAT system electronic archives will most likely reveal my case "it is not their first rodeo." Mr. Snazo is not currently a Defendant.

Signed and Sworn to as Fact: Andrew Clark, Plaintiff
3270 Stoney Ridge Rd. Eugene OR 97405 541.510.3915 OperationSunriseLaw@gmail.com

March 18, 2020

Billy Williams, United States Attorney for Oregon
1000 SW 3rd Ave Ste 600 Portland OR 97204
c/o Eugene OR Office in Wayne Morse Courthouse

Filed as Exhibit-Motion to Take
Judicial Notice
6.20.cv.253.aa
March 26, 2020

FEDERAL MAJOR VIOLENT CRIME REPORT

Repeated, Physical Tampering of a Federal Witness in Active
Department of Labor and Office of Comptroller of Currency Investigations.
Obstruction of Justice via Rampant Public Corruption Including Hobbs Act Violations.
Novel Crimes: Deliberate, Knowing Use of Family Courts as a Means of Tampering,
Fraudulent and Coordinated Use of Local, State, and Federal Justice Systems to Obstruct.

My civil complaint 6.20.cv.253.aa does a very good job of documenting actions against me and linking them to my employment at Wells Fargo. But unless it is read carefully, it could leave a reader wondering "what crimes could possibly have been committed so extreme that a group of people would be used to conceal it by committing a series of RICO crimes including the use of courts to obstruct justice? What evidence could a lowest-level worker possibly have of it?"

1. A police report is a very special and perfect type of evidence. Attached is a page from a Eugene, OR police report dated July 19, 2011. It is Page 82 of the civil complaint. It is from before all the RICO crimes were committed against me. It shows Wells Fargo corporate security agent Martin Ogno was aware I had filed reports with Federal Bureau-Investigation (FBI) in Eugene OR, therefore Wells Fargo was aware. Most shocking: Eugene Police told Ogno I considered his "well-being visit at my home at night by uniformed SWAT police" to be retaliation. Ogno told Eugene Police to 'fuhggedaboutit' and explains he had contacted FBI and that FBI did not take my (just filed in-person and sworn-to well-evidenced, voluminous) reports seriously. Think of that horrific violation of City of Eugene Police.

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3. Two different Federal Investigations were in process. Next exhibits are proof from Department of Labor and Office of Comptroller of Currency of recently accepted Federal investigations. The PACER system records for SLAPP-suit 6.11.cv.06248.ho and my subsequent civil actions show exactly how the courts were used to bypass discovery of the above crimes.

4. My civil complaint enumerates and documents the RICO crimes committed against me. Please note that I presented Tampering using false arrest and jail as violations of 18 USC 1201 by Wells Fargo/Ogletree Deakins: armed kidnapping for political or economic motivations. Use of police to tamper with a Federal Witness is absolutely gangland. It is as bad it gets, other than the novel crimes listed above and detailed in the civil complaint.

5. Related but not relevant to the crime report: I motioned for Wells Fargo and Company to intervene. It is in PACER. It is possible that everything that happened was actually a Wells Fargo & Co. project. A metaphor for that is found on www.TheEugeneBlairProject.com. I placed the Circuit Court and Police a/v on www.RisePatriot.com and www.WellsFargoWitz.com (family court).

Thank you from Andy Clark 3270 Stoney Ridge Rd. Eugene OR 97405 541.510.3915 (exhibits follow)

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11-11771

was Officer Pieske who was there with us during the contacts and told Clark that Officer Pieske concurred with my findings in the matters. I asked Clark if there was anything else I could do for him. Clark said there was nothing else I could do for him and he left city hall.

Also per Sergeant Klinko's request, I contacted Marty Ogno, head of security for Wells Fargo. I called Ogno and told him I had contacted Clark and that he had been advised he was trespassed from all Wells Fargo properties. I also told Ogno Clark was concerned he had \$24,000 in an account at Wells Fargo. Ogno said he had looked it up and though Clark only had about \$200 in an account, but that he would close Clark's account and mail him a check with the remaining balance. Ogno asked how the contact went. I told Ogno that Clark felt he was being retaliated upon for contacting the FBI and CIA with Wells Fargo's wrong doings. Ogno said that he had been in contact with the FBI and told me that the FBI did not take Clark's reports seriously.

>>>>

FBI would
not say that.

Notice no
person at
FBI is
referenced.

At approximately 1900 hours, dispatch advised that Clark had left a phone number for me to call him back so he could further discuss his desire to press charges against Wells Fargo for filing a false police report. I requested Sergeant Magnuson respond to the report writing room where I was working on reports so I could discuss the situation with him before calling Clark back. While I was explaining the situation to Sergeant Magnuson, Dispatch advised that Clark had called back 3 more times requesting contact. I then asked Sergeant Magnuson if he would contact Clark in my behalf in that I was unable to effectively communicate to Clark that Wells Fargo had broken no laws and that they had the right to trespass Clark from their properties.

It is corruption
of FBI processes
and obstruction.

Reviewed by FTO: **Pieske**
Name

112
Badge

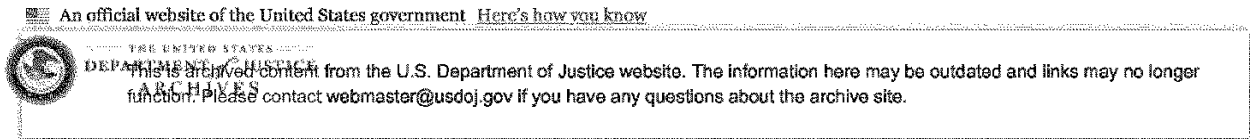
BTW, I did
report to CIA via
nationwide fax#
and consulate
offices in
Bangalore and
Hyderabad India
due to concerns
related to
system
development
work on the
CORE/ELF
system I had to
use here that
was being badly
programmed in
India.

isch
#623

07-19-11 2330 Hours

Approved By: Magnuson 122

3/16/2020 1729. Protection Of Government Processes -- Tampering With Victims, Witnesses, Or Informants -- 18 U.S.C. 1512 | JM | Department of ...



1729. PROTECTION OF GOVERNMENT PROCESSES -- TAMPERING WITH VICTIMS, WITNESSES, OR INFORMANTS -- 18 U.S.C. 1512

Section 1512 of Title 18 constitutes a broad prohibition against tampering with a witness, victim or informant. It proscribes conduct intended to illegitimately affect the presentation of evidence in Federal proceedings or the communication of information to Federal law enforcement officers. It applies to proceedings before Congress, executive departments, and administrative agencies, and to civil and criminal judicial proceedings, including grand jury proceedings. See 18 U.S.C. § 1515(a)(1). In addition, the section provides extraterritorial Federal jurisdiction over the offenses created therein. See 18 U.S.C. § 1512(g); 128 Cong. Rec. H8469 (daily ed. Oct. 1, 1980); H. R. Rep. No. 1369, 96th Cong., 2d Sess. 20-22 (1980).

The express prohibitions against tampering with witnesses and parties contained in former 18 U.S.C. §§ 1503 and 1505, are now in paragraphs (b)(1) and (2) of 18 U.S.C. § 1512. (As discussed in this [Manual at 1724](#) and [1727](#), the omnibus clauses of these provisions still cover witnesses.) All forms of tampering with informants covered in former 18 U.S.C. § 1510, with the exception of tampering by means of bribery, are now proscribed by 18 U.S.C. § 1512(b)(3). Tampering with informants by means of bribery remains an 18 U.S.C. § 1510 offense.

Section 1512 augments the prohibitions of the former law in several important respects. First, section 1512(b)(3) sweeps more broadly than former 18 U.S.C. § 1510 and expands the class of informants protected by Federal law. For example, it protects individuals having information concerning a violation of a condition of probation, parole, or bail whether or not that violation constitutes a violation of any other Federal criminal statute. Second, it protects individuals seeking to provide information to Federal judges or Federal probation and pretrial services officers.

Section 1512 also includes attempts in its list of prohibited conduct. There is no requirement that the defendants actions have the intended obstructive effect. See, e.g., *United States v. Murray*, 751 F.2d 1528 (9th Cir.), cert. denied, 474 U.S. 979 (1985); *United States v. Wilson*, 796 F.2d 55 (4th Cir. 1986), cert. denied, 479 U.S. 1039 (1987). As amended by the Criminal Law and Procedure Technical Amendments Act of 1986, Pub. L. 99-648, it is clear that the killing of a witness or attempts to kill a witness in order to prevent his/her testimony constitutes an act of force intended to "influence the witness' testimony." See 18 U.S.C. § 1512(a). This change was necessitated by one court interpreting former § 1512 as not reaching an act of attempted murder that was intended to prevent a witness from testifying. See *United States v. Dawlett*, 787 F.2d 771 (1st Cir. 1986).

The section specifically abolishes the pending proceeding requirement of 18 U.S.C. §§ 1503 and 1505. The provision also eliminates ambiguity about the class of individuals protected. Although the former law protected witnesses, parties, and informants, it was unclear whether that law reached the intimidation of third parties (for example, the spouse of a witness) for the purpose of intimidating the principal party. Section § 1512 of Title 18 plainly covers such conduct, for it speaks of conduct directed toward "another person." See 128 Cong. Rec. H8203 (daily ed. Sept. 30, 1982).

Section 1512 protects potential as well as actual witnesses. With the addition of the words "any person," it is clear that a witness is "one who knew or was expected to know material facts and was expected to testify to them before pending judicial proceedings." *United States v. DiSalvo*, 631 F.Supp. 1398 (E.D. Pa. 1986), aff'd, 826 F.2d 1054 (3d Cir. 1987). Under § 1512, an individual retains his/her status as a witness even after testifying. *United States v. Wilson*, 796 F.2d 55 (4th Cir. 1986), cert. denied, 479 U.S. 1039 (1987) (protection of witness under § 1512 continues throughout the trial); *United States v. Patton*, 721 F.2d 159 (6th Cir. 1983) (witness retains status while defendant's motion for a new trial is pending); *United States v. Chandler*, 604 F.2d 972 (5th Cir. 1979) (witness retains status while case is pending on direct appeal). Cf. *United States v. Risken*, 788 F.2d 1361 (8th Cir.), cert. denied, 479 U.S. 923 (1986) (party was a witness after asserting his Fifth Amendment privilege and being dismissed from the stand since he could be recalled at any time).

Section 1512 of Title 18 contains two significant additions to the types of tampering barred by Federal law. First, it forbids "misleading conduct," as defined in 18 U.S.C. § 1515. Such conduct was not covered in those circuits that had narrowly construed the omnibus clauses of 18 U.S.C. §§ 1503 and 1505 under the rule of ejusdem generis. See *United States v. Metcalf*, 435 F.2d 754 (9th Cir. 1970); *United States v. Essex*, 407 F.2d 214 (6th Cir. 1969). See generally, 128 Cong. Rec. H8203 (daily ed. Sept. 30, 1982). Second, 18 U.S.C. § 1512 makes intentional harassment a misdemeanor. This offense is intended to reach conduct less egregious than the corrupt, threatening or forceful conduct required for a violation of former 18 U.S.C. §§ 1503 and 1505. Harassing conduct has been defined as that intended to badger, disturb or pester. *Wilson*, *supra*.

Despite its coverage, section 1512 was not intended to reach all forms of witness tampering. Its coverage is limited to tampering accomplished by the specific means enumerated in the provision. *United States v. King*, 762 F.2d 232 (2d Cir. 1985), cert. denied, 475 U.S. 1018 (1986). The more imaginative types of witness tampering as well as forms of tampering defying enumeration were still prohibited by the omnibus provision of § 1503. *United States v. Lester*, 749 F.2d 1288 (9th Cir. 1984).

It is unclear whether 18 U.S.C. § 1512(b)(3) was intended to widen the prohibition against obstructing investigations contained in former 18 U.S.C. § 1510 to include investigations that are not per se criminal in nature, such as an FAA investigation of an aircraft accident, or a Senate committee investigation of the trucking industry. A comparison of the difference in phraseology between 18 U.S.C. §§ 1510 and 1512(b)(3), however, indicates that those differences are differences of style, not substance, and that no such expansion was intended. Section 1510 proscribes interference with "the communication of information relating to a violation of any criminal statute of the United States . . ." to a (Federal) criminal investigator; 18 U.S.C. § 1512(b)(3) proscribes interference with "the communication to a (Federal) law enforcement officer . . . of information relating to the commission or possible commission of a Federal offense." There is nothing to indicate that Congress intended to depart from the generally accepted meaning of "law enforcement" as criminal law enforcement and of "offense" as criminal violation. See 18 U.S.C. § 1515(4); 128 Cong. Rec. H8203 (daily ed. Sept. 30,

To: David P.R. Symes Littler Mendelson Page 5 of 9 2020-04-08 20:08:14 (GMT)

14157043294 From: Andrew Clark

3/16/2020 1729. Protection Of Government Processes -- Tampering With Victims, Witnesses, Or Informants -- 18 U.S.C. 1512 | JM | Department of ...

1982). Accordingly, prosecutions for interference with legislative or administrative investigations that have not taken on the character of a criminal investigation should be brought under the omnibus clause of 18 U.S.C. § 1505. See this Manual at 1726.

[cited in JM 9-69.100]

◀ 1728. Protection Of Government Processes -- Obstruction Of
Federal Criminal Investigation -- 18 U.S.C. 1510

up 1730. Protection Of Government Processes -- "Official Proceeding"
Requirement -- 18 U.S.C. 1512 ▶

Updated January 17, 2020

Case: 17-35247, 06/21/2017, ID: 10482013, DktEntry: 6-1, Page 94 of 295

U.S. DEPARTMENT OF LABOR

Occupational Safety & Health Administration
1111 Third Avenue, Suite 715
Seattle, Washington 98101 - 3212

July 11, 2011

Mr. Andrew Clark
3270 Soney Ridge Road
Eugene, OR 97405

Re: Consumer Financial Protection Act of 2010 Complaint Dated June 19, 2011

Dear Mr. Clark:

This is to acknowledge receipt of your complaint of retaliation under the whistleblower provision of the Consumer Financial Protection Act of 2010, Section 1057 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, 12 U.S.C.A. § 5567 (or, CFPA), which you filed on June 19, 2011. Please be advised that OSHA's jurisdiction to investigate such complaints does not become effective until the "designated transfer date," pursuant to Sections 1058 and 1062 of the Dodd-Frank Act, which the Secretary of the Treasury has set as *July 21, 2011*. The relevant sections of the statute can be found at www.whistleblowers.gov.

Should you wish to re-file a written CFPA whistleblower complaint on or after July 21st, you may send us another letter with this request. However, in order for OSHA to initiate an investigation, you must provide information that you were retaliated against on or after July 21, 2011.

In your complaint letter, you also requested to file it under Section 806 of the Sarbanes-Oxley Act ("SOX"). Please note that we have docketed that portion of your complaint as a SOX complaint. The SOX complaint has been assigned to OSHA Investigator, Patricia Brown who can be reached at 206-553-5930, and your employer has been notified about it.

Thank-you for your cooperation.

Sincerely,

Vicky Coleman
Vicky Coleman
Regional Supervisory Investigator

RECOGNIZED

RETALIATION

NOT

MAY 25 DOL -
PORTLAND

REPORT

OSHA Occupational
Safety and Health
Administration
www.osha.gov

429

Case 17-35247

Clark vs. Wells Fargo et al Exhibits

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LOST AT 201

Page 38

To: David P.R. Symes Littler Mendelson Page 7 of 9 2020-04-08 20:08:14 (GMT)

14157043294 From: Andrew Clark

3/17/2020

Xfinity Connect OCC Case _ 01640244 has been created_ Printout

do_not_reply@occ.treas.gov <do_not_reply@occ.treas.gov>

6/29/2011 6:01 AM

OCC Case # 01640244 has been created.

To mir99@comcast.net

6/29/2011

Re: Case# 01640244

Dear Andrew Clark:

This is an automatically generated message. Please do not reply to this email. We are unable to respond to messages sent to this address.

Please keep a copy of this email for your records!

This email acknowledges receipt of your Online Consumer Complaint form. Based upon your correspondence we have opened a case in the OCC's Customer Assistance Group (CAG). Please make note of the case number listed above, and provide the number on any future correspondence or contact with our office.

We are reviewing the information you provided, and will contact the bank requesting a response to your issues. In most instances, the bank will respond directly to you and copy us in writing. Once you receive the bank's response, it is very important that you carefully review their summary and actions taken, if any.

If the bank has satisfactorily addressed your issues and/or concerns no further action on your part is required. If however, the bank failed to address your issues and/or concerns or you disagree with their response, please contact the CAG in writing within 30 days of receipt of the bank's letter. Please include in your reply the specific issues that the bank failed to address or, if applicable, the reasons you disagree with the bank's assessment. Also, please include any additional documentation that supports your position.

The OCC examines national banks to ensure their safe and sound financial condition and ensures compliance with applicable banking laws, rules and regulations. The CAG was established to assist customers who have questions or complaints involving national banks. For additional information on the OCC and CAG please visit our internet site www.helpwithmybank.gov.

The CAG offers guidance, and assists consumers in resolving complaints about national banks and their subsidiaries. The CAG is not a consumer advocacy or bank advocacy group. The OCC is an administrative agency and we do not have jurisdiction to resolve contractual and factual issues. We do not have judicial authority and cannot award damages in excess of a bank's error.

While complaint processing times may vary, on average you should receive a written response from CAG within 60 days after we have a complete file.

If you would like to check the status of your case online, please click on the following link: https://appsec.helpwithmybank.gov/olcc_form/checkstatus.aspx or visit www.helpwithmybank.gov and click on the Check Case Status page.

Should you have questions, please contact this office at the number listed below.

Sincerely,

Customer Assistance Group
1-800-613-6743

This message contains confidential information and is intended solely for the use of the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by sending an email to helpwithmybank.faq@occ.treas.gov if you have received this e-mail by mistake and delete this e-mail from your system. E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message, which arise as a result of e-mail transmission. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

10/18/13

Phoenix - News - Valley Fever - Print Version

Exhibit 1

D

Sheriff Joe Arpaio's Favorite Law Firm, Ogletree Deakins, Cost Taxpayers \$2.4 Million -- in Just Two Years

By Sarah Fenske

Published Wed., May 26 2010 at 8:00 AM



The battle for control of Maricopa County -- pitting Sheriff Joe Arpaio and County Attorney Andrew Thomas against the Board of Supervisors, judges, and county administrators -- has been costly to both taxpayers and the parties involved.

But it's been a major boon to one local law firm.

Ogletree Deakins, a relatively obscure firm specializing in employment law, became Arpaio and Thomas' go-to legal counsel just as the disputes were heating up. And, according to public records obtained by *New Times*, the firm has billed the county for a staggering \$2.49 million since January 2009.

Most of the work had little to do with employment law -- and most of the firm's representation has been unsuccessful, legally speaking.

Ogletree Deakins has fought for the sheriff's right to take over the county's computer system. They tried to argue that the supervisors didn't have the right to sweep money from funds controlled by Thomas and Arpaio. They're currently pressing Arpaio's assertion that he shouldn't have to open his books to county auditors.

And, according to the billing records we looked at, it appears likely that Ogletree lawyers may have even been behind one of Arpaio/Thomas' biggest embarrassments: the criminal charges they filed against the county's presiding criminal court judge, Gary Donahoe.

As *New Times* first reported earlier this month, prosecutors filed criminal charges against Donahoe without bothering to seek a grand jury indictment. They simply filed a direct complaint, and attached a "probable cause" statement that, almost word for word, matched a complaint that the sheriff's office had filed with the Arizona Commission on Judicial Conduct one week before. That complaint, detailing a conspiracy theorist's view of Judge Donahoe's conduct, was signed by Arpaio's chief deputy, David Hendershott.

It now appears that Hendershott had some help penning the letter.

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According to its billing statements, Ogletree charged the county \$27,310 for something titled "MCSO State Bar/Judicial Complaint." The first two invoices with that notation were submitted on December 1, 2009 --

http://www.phoenix.com/valleyfever/001005/sheriff_joe_arpaio_favorite_law_firm.html

1/2

10/18/13

Phoenix - News - Valley Fever - Print Version

just one day after Hendershott filed "his" complaint with the judicial conduct commission.

So did an employment law specialist draft the document that became the basis for the criminal charges against the county's presiding criminal court judge? If nothing else, it would explain why the document drew guffaws from seasoned prosecutors. Ogletree's lawyers were likely in way over their heads. (And really, what was prosecutor Lisa Aubuchon thinking, merely regurgitating Ogletree's letter as a criminal complaint?)

According to the billing statements examined by *New Times*, Ogletree also advised Andrew Thomas on matters involving the State Bar. (That cost the taxpayers \$18,929). And, they advised either Arpaio or Thomas -- the billings aren't clear -- about issues relating to the selection of a new county attorney. (That cost us *another* \$12,762.)

Finally, Ogletree billed the county a staggering \$1.2 million for something described only as "contract compliance." County Spokeswoman Cari Gerchick told *New Times* that county administrators have no idea what that means.

We contacted L. Eric Dowell, a shareholder at Ogletree Deakins and the sheriff's lawyer of choice, to ask about the "contract compliance" payments, but we hadn't heard back by press time. We'll post an update if we get an answer.

In the mean time, looking at the wasted \$2.4 million and the unexplained \$1.2 million and the tens of thousands of dollars for failed legal adventures -- well, we never thought we'd say this, but we actually miss Dennis Wilenchik. Yes, *New Times* disagreed with Wilenchik on just about everything. But Wilenchik handled some pretty tough cases for Arpaio, not just political crap that should have never made its way to a docket.

And Wilenchik, unlike the sheriff's new \$2-million-counsel, actually knew how to win.

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1000 SW 3rd Ave Ste 600 Portland OR 97204
c/o Eugene OR Office in Wayne Morse Courthouse

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11-11771

was Officer Pieske who was there with us during the contacts and told Clark that Officer Pieske concurred with my findings in the matters. I asked Clark if there was anything else I could do for him. Clark said there was nothing else I could do for him and he left city hall.

Also per Sergeant Klanko's request, I contacted Marty Ogno, head of security for Wells Fargo. I called Ogno and told him I had contacted Clark and that he had been advised he was trespassed from all Wells Fargo properties. I also told Ogno Clark was concerned he had \$24,000 in an account at Wells Fargo. Ogno said he had looked it up and though Clark only had about \$200 in an account, but that he would close Clark's account and mail him a check with the remaining balance. Ogno asked how the contact went. I told Ogno that Clark felt he was being retaliated upon for contacting the FBI and CIA with Wells Fargo's wrong doings. Ogno said that he had been in contact with the FBI and told me that the FBI did not take Clark's reports seriously.

>>>>>

FBI would
not say that.

Notice no
person at
FBI is
referenced.

At approximately 1900 hours, dispatch advised that Clark had left a phone number for me to call him back so he could further discuss his desire to press charges against Wells Fargo for filing a false police report. I requested Sergeant Magnuson respond to the report writing room where I was working on reports so I could discuss the situation with him before calling Clark back. While I was explaining the situation to Sergeant Magnuson, Dispatch advised that Clark had called back 3 more times requesting contact. I then asked Sergeant Magnuson if he would contact Clark in my behalf in that I was unable to effectively communicate to Clark that Wells Fargo had broken no laws and that they had the right to trespass Clark from their properties.

It is corruption
of FBI processes
and obstruction.

Reviewed by FTO: **Pieske**
Name

112
Badge

BTW, I did
report to CIA via
nationwide fax#
and consulate
offices in
Bangalore and
Hyderabad India
due to concerns
related to
system
development
work on the
CORE/ELF
system I had to
use here that
was being badly
programmed in
India.

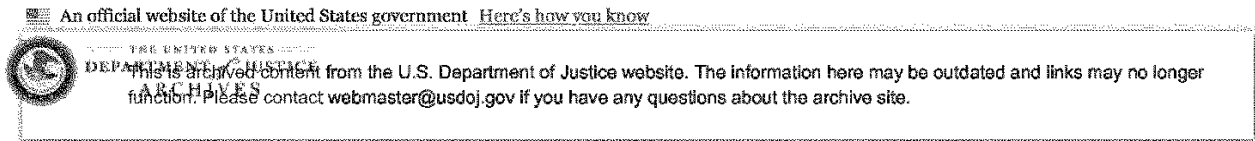
Isch
#623

07-19-11 2330 Hours

Approved By: Magnuson 122

3/16/2020

1729. Protection Of Government Processes -- Tampering With Victims, Witnesses, Or Informants -- 18 U.S.C. 1512 | JM | Department of ...



1729. PROTECTION OF GOVERNMENT PROCESSES -- TAMPERING WITH VICTIMS, WITNESSES, OR INFORMANTS -- 18 U.S.C. 1512

Section 1512 of Title 18 constitutes a broad prohibition against tampering with a witness, victim or informant. It proscribes conduct intended to illegitimately affect the presentation of evidence in Federal proceedings or the communication of information to Federal law enforcement officers. It applies to proceedings before Congress, executive departments, and administrative agencies, and to civil and criminal judicial proceedings, including grand jury proceedings. See 18 U.S.C. § 1515(a)(1). In addition, the section provides extraterritorial Federal jurisdiction over the offenses created therein. See 18 U.S.C. § 1512(g); 128 Cong. Rec. H8469 (daily ed. Oct. 1, 1980); H. R. Rep. No. 1369, 96th Cong., 2d Sess. 20-22 (1980).

The express prohibitions against tampering with witnesses and parties contained in former 18 U.S.C. §§ 1503 and 1505, are now in paragraphs (b)(1) and (2) of 18 U.S.C. § 1512. (As discussed in this [Manual at 1724](#) and [1727](#), the omnibus clauses of these provisions still cover witnesses.) All forms of tampering with informants covered in former 18 U.S.C. § 1510, with the exception of lampering by means of bribery, are now proscribed by 18 U.S.C. § 1512(b)(3). Tampering with informants by means of bribery remains an 18 U.S.C. § 1510 offense.

Section 1512 augments the prohibitions of the former law in several important respects. First, section 1512(b)(3) sweeps more broadly than former 18 U.S.C. § 1510 and expands the class of informants protected by Federal law. For example, it protects individuals having information concerning a violation of a condition of probation, parole, or bail whether or not that violation constitutes a violation of any other Federal criminal statute. Second, it protects individuals seeking to provide information to Federal judges or Federal probation and pretrial services officers.

Section 1512 also includes attempts in its list of prohibited conduct. There is no requirement that the defendants actions have the intended obstructive effect. See, e.g., *United States v. Murray*, 751 F.2d 1528 (9th Cir.), cert. denied, 474 U.S. 979 (1985); *United States v. Wilson*, 796 F.2d 55 (4th Cir. 1986), cert. denied, 479 U.S. 1039 (1987). As amended by the Criminal Law and Procedure Technical Amendments Act of 1986, Pub. L. 99-646, it is clear that the killing of a witness or attempts to kill a witness in order to prevent his/her testimony constitutes an act of force intended to "influence the witness' testimony." See 18 U.S.C. § 1512(a). This change was necessitated by one court interpreting former § 1512 as not reaching an act of attempted murder that was intended to prevent a witness from testifying. See *United States v. Dawlett*, 787 F.2d 771 (1st Cir. 1986).

The section specifically abolishes the pending proceeding requirement of 18 U.S.C. §§ 1503 and 1505. The provision also eliminates ambiguity about the class of individuals protected. Although the former law protected witnesses, parties, and informants, it was unclear whether that law reached the intimidation of third parties (for example, the spouse of a witness) for the purpose of intimidating the principal party. Section § 1512 of Title 18 plainly covers such conduct, for it speaks of conduct directed toward "another person." See 128 Cong. Rec. H8203 (daily ed. Sept. 30, 1982).

Section 1512 protects potential as well as actual witnesses. With the addition of the words "any person," it is clear that a witness is "one who knew or was expected to know material facts and was expected to testify to them before pending judicial proceedings." *United States v. DiSalvo*, 631 F.Supp. 1398 (E.D. Pa. 1986), *aff'd*, 826 F.2d 1054 (3d Cir. 1987). Under § 1512, an individual retains his/her status as a witness even after testifying. *United States v. Wilson*, 796 F.2d 55 (4th Cir. 1986), cert. denied, 479 U.S. 1039 (1987) (protection of witness under § 1512 continues throughout the trial); *United States v. Patton*, 721 F.2d 159 (6th Cir. 1983) (witness retains status while defendant's motion for a new trial is pending); *United States v. Chandler*, 604 F.2d 972 (5th Cir. 1979) (witness retains status while case is pending on direct appeal). Cf. *United States v. Risken*, 788 F.2d 1361 (8th Cir.), cert. denied, 479 U.S. 923 (1986) (party was a witness after asserting his Fifth Amendment privilege and being dismissed from the stand since he could be recalled at any time).

Section 1512 of Title 18 contains two significant additions to the types of tampering barred by Federal law. First, it forbids "misleading conduct," as defined in 18 U.S.C. § 1515. Such conduct was not covered in those circuits that had narrowly construed the omnibus clauses of 18 U.S.C. §§ 1503 and 1505 under the rule of ejusdem generis. See *United States v. Metcalf*, 435 F.2d 754 (9th Cir. 1970); *United States v. Essex*, 407 F.2d 214 (6th Cir. 1969). See generally, 128 Cong. Rec. H8203 (daily ed. Sept. 30, 1982). Second, 18 U.S.C. § 1512 makes intentional harassment a misdemeanor. This offense is intended to reach conduct less egregious than the corrupt, threatening or forceful conduct required for a violation of former 18 U.S.C. §§ 1503 and 1505. Harassing conduct has been defined as that intended to badger, disturb or pester. *Wilson, supra*.

Despite its coverage, section 1512 was not intended to reach all forms of witness tampering. Its coverage is limited to tampering accomplished by the specific means enumerated in the provision. *United States v. King*, 762 F.2d 232 (2d Cir. 1985), cert. denied, 475 U.S. 1018 (1986). The more imaginative types of witness tampering as well as forms of tampering defying enumeration were still prohibited by the omnibus provision of § 1503. *United States v. Lester*, 749 F.2d 1288 (9th Cir. 1984).

It is unclear whether 18 U.S.C. § 1512(b)(3) was intended to widen the prohibition against obstructing investigations contained in former 18 U.S.C. § 1510 to include investigations that are not per se criminal in nature, such as an FAA investigation of an aircraft accident, or a Senate committee investigation of the trucking industry. A comparison of the difference in phraseology between 18 U.S.C. §§ 1510 and 1512(b)(3), however, indicates that those differences are differences of style, not substance, and that no such expansion was intended. Section 1510 proscribes interference with "the communication of information relating to a violation of any criminal statute of the United States . . ." to a (Federal) criminal investigator; 18 U.S.C. § 1512(b)(3) proscribes interference with "the communication to a (Federal) law enforcement officer . . . of information relating to the commission or possible commission of a Federal offense." There is nothing to indicate that Congress intended to depart from the generally accepted meaning of "law enforcement" as criminal law enforcement and of "offense" as criminal violation. See 18 U.S.C. § 1515(4); 128 Cong. Rec. H8203 (daily ed. Sept. 30,

To: Steven Seymour Samuels Yoelin Kantor Page 5 of 9 2020-04-08 20:08:16 (GMT)

14157043294 From: Andrew Clark

3/16/2020 1729. Protection Of Government Processes -- Tampering With Victims, Witnesses, Or Informants -- 18 U.S.C. 1512 | JM | Department of ...

1982). Accordingly, prosecutions for interference with legislative or administrative investigations that have not taken on the character of a criminal investigation should be brought under the omnibus clause of 18 U.S.C. § 1505. See this [Manual at 1726](#).

[cited in [JM 9-69.100](#)]

◀ 1728. Protection Of Government Processes -- Obstruction Of
Federal Criminal Investigation -- 18 U.S.C. 1510

up 1730. Protection Of Government Processes -- "Official Proceeding"
Requirement -- 18 U.S.C. 1512 ▶

Updated January 17, 2020

Case: 17-35247, 06/21/2017, ID: 10482013, DktEntry: 6-1, Page 94 of 295

U.S. DEPARTMENT OF LABOR

Occupational Safety & Health Administration
1111 Third Avenue, Suite 715
Seattle, Washington 98101 - 3212

July 11, 2011

Mr. Andrew Clark
3270 Soney Ridge Road
Eugene, OR 97405

Re: Consumer Financial Protection Act of 2010 Complaint Dated June 19, 2011

Dear Mr. Clark:

This is to acknowledge receipt of your complaint of retaliation under the whistleblower provision of the Consumer Financial Protection Act of 2010, Section 1057 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, 12 U.S.C.A. § 5567 (or, CFPA), which you filed on June 19, 2011. Please be advised that OSHA's jurisdiction to investigate such complaints does not become effective until the "designated transfer date," pursuant to Sections 1058 and 1062 of the Dodd-Frank Act, which the Secretary of the Treasury has set as *July 21, 2011*. The relevant sections of the statute can be found at www.whistleblowers.gov.

Should you wish to re-file a written CFPA whistleblower complaint on or after July 21st, you may send us another letter with this request. However, in order for OSHA to initiate an investigation, you must provide information that you were retaliated against on or after July 21, 2011.

In your complaint letter, you also requested to file it under Section 806 of the Sarbanes-Oxley Act ("SOX"). Please note that we have docketed that portion of your complaint as a SOX complaint. The SOX complaint has been assigned to OSHA Investigator, Patricia Brown who can be reached at 206-553-5930, and your employer has been notified about it.

Thank-you for your cooperation.

Sincerely,

Vicky Coleman
Vicky Coleman
Regional Supervisory Investigator

RECOGNIZED
RETALIATION

NOT MAY 25 DOL -
PORTLAND

OSHA Occupational Safety and Health Administration
www.osha.gov

REPORT

429

Case 17-35247

Clark vs. Wells Fargo et al Exhibits

100 PAGE

3 a

GOT
LOST AT 201

Page 38

To: Steven Seymour Samuels Yoelin Kantor Page 7 of 9 2020-04-08 20:08:16 (GMT)

14157043294 From: Andrew Clark

3/17/2020

Xfinity Connect OCC Case _ 01640244 has been created_ Printout

do_not_reply@occ.treas.gov <do_not_reply@occ.treas.gov>

6/29/2011 6:01 AM

OCC Case # 01640244 has been created.

To mir99@comcast.net

6/29/2011

Re: Case# 01640244

Dear Andrew Clark:

This is an automatically generated message. Please do not reply to this email. We are unable to respond to messages sent to this address.

Please keep a copy of this email for your records!

This email acknowledges receipt of your Online Consumer Complaint form. Based upon your correspondence we have opened a case in the OCC's Customer Assistance Group (CAG). Please make note of the case number listed above, and provide the number on any future correspondence or contact with our office.

We are reviewing the information you provided, and will contact the bank requesting a response to your issues. In most instances, the bank will respond directly to you and copy us in writing. Once you receive the bank's response, it is very important that you carefully review their summary and actions taken, if any.

If the bank has satisfactorily addressed your issues and/or concerns no further action on your part is required. If however, the bank failed to address your issues and/or concerns or you disagree with their response, please contact the CAG in writing within 30 days of receipt of the bank's letter. Please include in your reply the specific issues that the bank failed to address or, if applicable, the reasons you disagree with the bank's assessment. Also, please include any additional documentation that supports your position.

The OCC examines national banks to ensure their safe and sound financial condition and ensures compliance with applicable banking laws, rules and regulations. The CAG was established to assist customers who have questions or complaints involving national banks. For additional information on the OCC and CAG please visit our internet site www.helpwithmybank.gov.

The CAG offers guidance, and assists consumers in resolving complaints about national banks and their subsidiaries. The CAG is not a consumer advocacy or bank advocacy group. The OCC is an administrative agency and we do not have jurisdiction to resolve contractual and factual issues. We do not have judicial authority and cannot award damages in excess of a bank's error.

While complaint processing times may vary, on average you should receive a written response from CAG within 60 days after we have a complete file.

If you would like to check the status of your case online, please click on the following link: https://appsec.helpwithmybank.gov/olcc_form/checkstatus.aspx or visit www.helpwithmybank.gov and click on the Check Case Status page.

Should you have questions, please contact this office at the number listed below.

Sincerely,

Customer Assistance Group
1-800-613-6743

This message contains confidential information and is intended solely for the use of the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by sending an email to helpwithmybank.faq@occ.treas.gov if you have received this e-mail by mistake and delete this e-mail from your system. E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message, which arise as a result of e-mail transmission. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

10/18/13

Phoenix - News - Valley Fever - Print Version

Exhibit 1



Sheriff Joe Arpaio's Favorite Law Firm, Ogletree Deakins, Cost Taxpayers \$2.4 Million -- in Just Two Years

By Sarah Fenske

Published Wed., May 26 2010 at 8:00 AM



L. Eric Dowell,
rainmaker

The battle for control of Maricopa County -- pitting Sheriff Joe Arpaio and County Attorney Andrew Thomas against the Board of Supervisors, judges, and county administrators -- has been costly to both taxpayers and the parties involved.

But it's been a major boon to one local law firm.

Ogletree Deakins, a relatively obscure firm specializing in employment law, became Arpaio and Thomas' go-to legal counsel just as the disputes were heating up. And, according to public records obtained by *New Times*, the firm has billed the county for a staggering \$2.49 million since January 2009.

Most of the work had little to do with employment law -- and most of the firm's representation has been unsuccessful, legally speaking.

Ogletree Deakins has fought for the sheriff's right to take over the county's computer system. They tried to argue that the supervisors didn't have the right to sweep money from funds controlled by Thomas and Arpaio. They're currently pressing Arpaio's assertion that he shouldn't have to open his books to county auditors.

And, according to the billing records we looked at, it appears likely that Ogletree lawyers may have even been behind one of Arpaio/Thomas' biggest embarrassments: the criminal charges they filed against the county's presiding criminal court judge, Gary Donahoe.

As *New Times* first reported earlier this month, prosecutors filed criminal charges against Donahoe without bothering to seek a grand jury indictment. They simply filed a direct complaint, and attached a "probable cause" statement that, almost word for word, matched a complaint that the sheriff's office had filed with the Arizona Commission on Judicial Conduct one week before. That complaint, detailing a conspiracy theorist's view of Judge Donahoe's conduct, was signed by Arpaio's chief deputy, David Hendershott.

It now appears that Hendershott had some help penning the letter.

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According to its billing statements, Ogletree charged the county \$27,310 for something titled "MCSO State Bar/Judicial". The first two invoices with that notation were submitted on December 1, 2009 --

More information: http://www.phoenix.com/stories/05/26/2010/052610sheriff_100_arpaio_favorite_law_firm.html

1/2

10/18/13

Phoenix - News - Valley Fever - Print Version

just one day after Hendershott filed "his" complaint with the judicial conduct commission.

So did an employment law specialist draft the document that became the basis for the criminal charges against the county's presiding criminal court judge? If nothing else, it would explain why the document drew guffaws from seasoned prosecutors. Ogletree's lawyers were likely in way over their heads. (And really, what was prosecutor Lisa Aubuchon thinking, merely regurgitating Ogletree's letter as a criminal complaint?)

According to the billing statements examined by *New Times*, Ogletree also advised Andrew Thomas on matters involving the State Bar. (That cost the taxpayers \$18,929). And, they advised either Arpaio or Thomas -- the billings aren't clear -- about issues relating to the selection of a new county attorney. (That cost us *another* \$12,762.)

Finally, Ogletree billed the county a staggering \$1.2 million for something described only as "contract compliance." County Spokeswoman Cari Gerchick told *New Times* that county administrators have no idea what that means.

We contacted L. Eric Dowell, a shareholder at Ogletree Deakins and the sheriff's lawyer of choice, to ask about the "contract compliance" payments, but we hadn't heard back by press time. We'll post an update if we get an answer.

In the mean time, looking at the wasted \$2.4 million and the unexplained \$1.2 million and the tens of thousands of dollars for failed legal adventures -- well, we never thought we'd say this, but we actually miss Dennis Wilenchik. Yes, *New Times* disagreed with Wilenchik on just about everything. But Wilenchik handled some pretty tough cases for Arpaio, not just political crap that should have never made its way to a docket.

And Wilenchik, unlike the sheriff's new \$2-million-counsel, actually knew how to win.

27

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
Eugene, Oregon Division**

Andrew Clark, Plaintiff
3270 Stoney Ridge Rd.
Eugene, OR 97405 541.510.3915
OperationSunriseLaw@gmail.com

Civil Complaint Case: 6: cv 20-00253-aa

Wells Fargo and Company
420 Montgomery St. San Francisco, CA 94163
as Voluntary or Mandatory
Intervenor for Plaintiff
(Subject to FRCP 24)

Partial Reply to Responses
Filed April 20, 2020

vs. Defendants:

Wells Fargo Bank et al

Reply to Responses (partial)

Thank you very much for your responses to Civil Case 20-00253. Before getting into that I want to share some exciting news I learned last week: Honorable Judge Michael Hogan (ret.) is joining our Team! He is bringing with him Jared Hager, Assistant United States Attorney (AUSA)- Civil Division. I also made good contact with Pam Holister AUSA – Criminal Division.

Docket 56 ‘federal witness tampering’ contains a police report page dated July 19, 2011. Judge Michael Hogan accepted Wells Fargo’s Emergency SLAPP Suit 11-06248 filed on “emergency basis” in early August 2011 by Ogletree Deakins. The attachment is a transcript of the third hearing in that court. It was by telephone on May 8, 2012. It was not in PACER until I paid to have it transcribed in early 2016. It is ‘absolutely must read’.

Most of you are named in this lawsuit as Defendants so you can be absolved and held harmless by acting as ‘witness’. You based your actions (described in complaint) upon elaborate lies of Wells Fargo/Ogletree Deakins, just as did Judge Hogan. I urge each of you to withdraw or modify your response to conform to the new information. Pleading to FRCP 8-E is one method as I describe within this document.

April 20, 2020 Reply to Responses Case 6.20.cv.00253.aa Clark vs. Wells Fargo et al Page 1 of 5

My complaint is based on facts and already-discovered evidence that would fully support criminal indictments for RICO and/or the underlying RICO Crimes. The public corruption includes text-book examples Hobbs Act violations, 18 USC 1951 which was expanded to include 'third party benefits awarded under color of official rights'. But this case went further. Use of false arrest and jailing by armed police against a Federal Witness is a primary metric of "organized crime".

I urge each of you to reference these two DOJ manuals. My complaint, its factual basis, and the supporting evidence fully conforms to the Criminal RICO manual. It along with the referenced PACER records are a ready-to-go criminal complaint.

Criminal RICO Manual <https://www.justice.gov/archives/usam/file/870856/download>

Civil RICO Manual: <https://www.justice.gov/sites/default/files/usam/legacy/2014/10/17/civrico.pdf>

This reply covers most of my objections to responses but it was rushed. The responses are voluminous and I am not through them yet. I motioned for extra time and was granted a partial extension that did not fulfill the objective. I also noticed that my Motion submitted under FRCP 24 for Wells Fargo and Company as Intervenor was denied. Denial is not the problem: it is the total lack of discussion with no reason being provided.

The way the COURT STAFF handled both of those motions under the circumstances prompted me to file Docket 56, report the situation to all of the DOJ Offices of Inspector General, and make telephone contact with Ms. Holister. That is exactly how the enterprise used the courts to bypass evidence in past proceedings. I am not replying to Ogletree Deakins' April 9, 2020 response with this document as it is not due yet. And I believe that Judge Hogan and Oregon's AG (Defendant Rosenblum et al) will want "first crack" at Wells Fargo/Ogletree Deakins which just might prompt speedy resolution.

Docket 56 – Federal Witness Tampering, RICO, and You

RICO Makes You Culpable for the Results of the Enterprise

Clayton/Sherman ATA Makes the Corporate Entities Culpable for RICO by it's Agents

Defendant-Attorneys: Federal Witness Tampering occurred. Docket 56 is a Federal Crime Report. It is one page of a police report, two federal investigation acceptance letters, and a printout of Criminal Resource Manual 1729. Federal Witness Tampering occurred by definition and without regard to any other facts. Wells Fargo brought in Ogletree Deakins against me while still employed. Ex. 56 contains a two-page news article from Maricopa County, AZ in the same general timeframe demonstrating that Ogletree Deakins (a national

firm) has a history of using the same tactics elsewhere, another metric of Racketeering and Organized Crime as well as the need for Clayton/Sherman ATA.

The Tampering events described in my complaint include physically violent federal felonies that constitute RICO. RICO makes YOU culpable for the results of the Enterprise. The Hobbs Act violations involved rampant, systemic public corruption. A complete evidence base was repeatedly submitted to the court and was obstructed with pleadings much like the ones Defendants used in this proceeding coupled with fraudulent use of official systems along with legal battery of me.

Criminal Violation of Sarbanes-Oxley (SOX) Legislation and 18 USC 1519

Attention Wells Fargo Responsible Corporate Officers and
Ogletree Deakins / Seyfarth Shaw Partners and/or Shareholders

As disclosed in Docket 56, a SOX investigation (not Dodd-Frank) that included internal reporting was in process at Department of Labor/OSHA when the witness tampering started. “Yates” is a 2015 Supreme Court case that clarified “tangible object” as it relates to 18 USC 1519 that rose from SOX. The court is intangible. The court systems and PACER are tangible objects into which I submitted facts/evidence. Any pleading or action that had the effect of obstructing and bypassing adjudication of facts/evidence violated 18 USC 1519. The SOX legislation extends criminal culpability to the Wells Fargo RCO’s along with Partners and/or Shareholders of Ogletree Deakins and Seyfarth Shaw.

It is beneficial to accept the above as generally true unless you can point out anything that meaningfully contradicts it. Attorney-Defendants, please take a look and I am hopeful you will agree the Ginsburg Court mused that nothing in the law prevents a criminal situation from having no penalty or even rewards if the social benefit justifies it. The factual basis and evidence supports Alternative Dispute Resolution in which ALL OF US can make shameless-but-righteous Progress.

Defenses Based on Res Judicata and Statutes of Limitations

Tolling Begins When Obstruction of Evidence Placed Into the Court Ends

A claim of Res Judicata in this situation represents perjury and continued obstruction of justice that gravely endangered Wells Fargo and the general public. The PACER records of

the prior cases stands as timeless, unequivocal proof that all facts and evidence I placed into the court in any conceivable format were all bypassed and were not adjudicated.

Many Defendants incorrectly claimed the matter was outside of statutes of limitations and time bars. All facts and evidence were placed into the court systems and bypassed via obstructive pleadings as demonstrated in PACER. Each defendant is subject to the 10 year RICO window. The predicate acts occurred within a four year period. A convincing body of evidence supporting the facts was repeatedly placed into the court and then bypassed completely. All case law involving major obstructed evidence says what common sense confirms: tolling begins when obstruction ends.

Defenses Based on FRCP 12(b)(6) vs. FRCP 8-E

Motions to dismiss based upon FRCP 12(b)(6) are clearly not appropriate to the factual basis and evidence in this case. It will take you less than 10 minutes absorbing Docket 56 and you will instinctively feel you may have acted upon false and wrongful information that had the result of tampering with a federal witness. Most of you were used by Attorney Pollino's clients as agents of their tampering and obstruction of justice (bypassing the factual basis and evidence). Think back, check records and try to remember what information you were provided and by who that caused you to do as I allege in the FRCP 9 pleading. Read up on "vicarious vs. active participation" and your duties as attorneys to have done differently in retrospect. Then consider pleading to FRCP 8-E as I use in an example below.

Defenses Based on Immunity

First and foremost: The primary reason to include an "immune person" such as Oregon's Attorney General Rosenblum in a lawsuit is to demonstrate to them how the government agency was wrongly influenced by Wells Fargo/Ogletree Deakins. It is the best and only way for a citizen to formally provide them a good reason to FOLLOW THE LAW AND CORRECT THE DAMAGE THEY DID. No person enjoys complete immunity if they commit a crime. Also, I included Exhibit 11, an Amicus Curiae in a recent New York case in which a judge concluded President Trump does not have complete immunity. If he doesn't...none of us should. To be honest, I have not read State's response yet due to being rushed as described in the introduction.

Defendant Attorneys: Opportunity is Knocking Hard

Defendant Bruce Newton is my ex-wife's divorce attorney. I accused him in the complaint in some detail. Without any regard to that: Docket 56 (CRM 1729) specifies HIS CLIENT is entitled to relief of damages caused by federal witness tampering. I am hopeful Defendant Newton joins me because that is what is both right and righteous and I would like to discuss it with him privately. I await his call so we can talk about real progress for all.

I will use Defendant Barry Davis as an example that in one way or another applies to all or most Defendants. It is legally and ethically correct to plead to FRCP 8-e "Pleadings must be construed so as to do justice." I paid Defendant Davis a lot of money to file an appeal for 11-06248 which was never filed despite assurances otherwise. On several occasions he mentioned to me that Defendant Lively called him. My impression was that she applied a lot of pressure upon him and certainly did not mention that Federal Witness Tampering she was trying to conceal. I personally heard how she pressured Judge Hogan and you can read the attached tele-hearing transcript where she is badgering the judge about her burning need for "Motion 78" to be approved. The transcript does not reflect the shrill urgency in her voice that a recording would as she openly treated Judge Hogan as a child-lackey. Have tissue on hand as that "absolutely must read" transcript will likely cause you to shed tear for the Court, Judge Hogan, my family, and myself... and yourself.

So I can only imagine what she was saying to Attorney Barry Davis that paralyzed him. I think Mr. Davis (et al) would rather summarize it briefly in this court and be absolved and held harmless rather than explaining it in infinite detail to a team of state and federal investigators and having to provide all the telephone and income tax records related to the very significant amount of money involved, etc. Similar could be said for all Defendants. Please feel free to contact me any time. I do not record calls and you are also welcome to visit. Thank you all.

Signed and Sworn to as Truth on April 20, 2020.

/s Andrew Clark

Andrew (Andy) Clark, Plaintiff 3270 Stoney Ridge Rd. Eugene, OR 97405 541.510.3915
OperationSunriseLaw@gmail.com www.RisePatriot.com www.WellsFargoWitz.com

www.WellsFargoRICO.com www.DoggyMcStyleLaw.com www.DistrictCourtOregon.com
Solution Metaphor: www.TheEugeneBlairProject.com.

Exhibit for Reply to Responses as described in the reply document 4-20-20

1

1 UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF OREGON
 3 WELLS FARGO BANK, N.A.,)
 4 Plaintiff,) No. 6:11-cv-06248-AA
 5 v.) May 8, 2012
 6 ANDREW G. CLARK,) Eugene, Oregon
 7 Defendant.)

8
 9 TRANSCRIPT OF TELEPHONE ORAL ARGUMENT
 10 BEFORE THE HONORABLE MICHAEL R. HOGAN
 11 UNITED STATES DISTRICT COURT JUDGE
 12
 13

14 -:-

15 APPEARANCES OF COUNSEL VIA TELEPHONE

16 FOR THE PLAINTIFF: LEAH C. LIVELY
 17 Ogletree Deakins Nash Smoak &
 18 Stewart
 19 222 SW Columbia Street
 20 Suite 1500
 Portland, OR 97201
 (503) 552-2140
 leah.lively@ogletreedeakins.com

21 FOR THE DEFENDANT: ANDREW G. CLARK, pro se
 22 3270 Stoney Ridge Road
 Eugene, OR 97405
 (541) 510-3915

23 Court Reporter: Deborah Wilhelm, CSR, RPR
 24 Court Reporter
 P.O. Box 1504
 25 Eugene, OR 97440
 (541) 505-0760

1 (Tuesday, May 8, 2012; 9:36 a.m.)

2 (The following proceedings were had in chambers.)

3 P R O C E E D I N G S

4 THE CLERK: This is the time set for Case
5 11-6248, *Wells Fargo Bank versus Clark*, time set for
6 status conference and oral argument on motion for relief
7 from joint filing requirements, Number 78.

8 MR. CLARK: Okay.

9 THE COURT: Thank you. I'm familiar with the
10 papers that have been filed. Is there anything you wish
11 to add?

12 MR. CLARK: I -- to be honest with you. This
13 is Andy Clark over here at 3270 Stoney Ridge Road, and
14 I'm just a little bit confused as to the overall status
15 and what this particular matter is about.

16 I haven't filed anything with the court since,
17 I think, December, if I'm not mistaken. And I'm trying
18 to figure out what this Number 78 is. I'm not an
19 attorney.

20 And so my feeling is, again, there was an
21 overall wrong that has kind of gone on here. I've put
22 that in the local SWAT, they are doing an investigation
23 as of last week. They are finally taking a look at
24 those events back in July. And the way I see it, what
25 happened back in July, which I got on their own audio

3

1 and you can talk to them about it, it's pretty clear. I
2 mean, on July 18th before this all started, they had
3 already posted guards, you know, to -- for no reason.
4 And then they have arranged to have a fake 911 call and
5 I put it all online. And then they came at night to my
6 house and they did not have a warrant at the time they
7 came to my house. And you can clearly -- very clearly
8 on their internal audio hear them call on July 18th
9 before any of that arrest stuff started, you know, they
10 talked to Wells Fargo.

11 And so I've been of the opinion that -- you
12 know, I have been in contact with the FBI in real -- it
13 was financial -- you know, there was banking, it's
14 required as a mandatory reporter in banking to report
15 financial system fraud that you are involved in or see.
16 And whatever else you had on, that's your business, but
17 that's what I did. And, you know, they had a fraud and
18 everybody knew it. And so eventually when you get these
19 new requirements, they came a year ago, I just couldn't
20 do it anymore. I wouldn't do it anymore. And they
21 asked about it and they pushed back.

22 And the way I look at it, this whole thing
23 hasn't been looked at right and I've tried to be patient
24 and you understand that I have been getting every one of
25 these reports on this. I've made reference to my

1 opinion that they even influenced the family court, just
2 due to timing. And I'm just trying to get this all
3 shoveled under the rug for everybody. All I want to do
4 is get Wells Fargo up here, and go, look, you guys,
5 this -- you got -- all I wanted to do is follow the law
6 and the policy. So let's get this out of the courts,
7 you know, let's get this back to a nice friendly thing
8 where we're all working on a team for progress of the
9 bank and progress of the world and we're not dragging
10 dirt through civil courts and through all these
11 litigations.

12 It's just -- it just don't seem to me to be
13 very productive when it's just a matter of getting them
14 up here to settle it. And to settle with me, you know,
15 I haven't been very specific about that, you know. You
16 know, what I mean? I don't know. Don't you get it? I
17 just need it resolved. My life is short. I don't have
18 ten years or whatever corporations do. See, I've been
19 subjected to a corporate process, something that lawyers
20 spend 10 years, 20 years, they don't care. I'm just me.
21 I'm 53. This is killing me, you know, faster than I
22 thought it might, okay? And so I really don't know what
23 to do. I honestly don't.

24 Last time I was there, I was told not to file
25 motions except through the federal system, well, I feel

5

1 a little nervous about filing motions through the
2 federal systems. I'm pretty handy with systems. I
3 don't want to get in any trouble with the system guys.
4 So I don't know what to tell you.

5 Whatever it is we need to do, you know, I
6 didn't appeal this, had a judgment back in January. The
7 way I see it, there wasn't a grain of truth in it, but,
8 again, I don't want to be contentious with anybody, you
9 understand? I'm right here in my house. You know, I
10 ain't hiding from anybody. And I just need some relief
11 from the court in a different way. I'm just a human. I
12 don't have the knowledge and I don't have the time and I
13 don't think it's right in this small community to be
14 dragging all the little people through this.

15 I wrote a letter to my congressman on April
16 10th and he says, well, we suggest you talk to Kitty
17 Piercy on the town city council. You know, it's really
18 infuriating to me, because I've been trying -- I've got
19 letters after letters after letters. And, you know, I
20 posted it all on my Web site and I tried to make it so
21 people wouldn't see it fast. You know, I tried to make
22 it so it was hard to get to. And then I kind of moved
23 it around a little bit, but I just want to get on with
24 my life. Don't you understand?

25 I've got people who Google me and look what

6

1 they see, they see these federal actions, right? You
2 know, so I don't know what to do. If it's -- Judge, if
3 you're there, or Your Honor, anybody in the FBI,
4 whatever you all need, but I need you to all look at
5 what I've put into that court and the fact that I don't
6 want to be dragging it through the mud. That's my only
7 objective. I go into court and I just shut my mouth,
8 because it's me, and I can deal with it, and I don't
9 want to be dragging through the courts, it's not right.

10 THE COURT: Well, Mr. Clark -- okay, Mr. Clark.

11 Ms. Lively, do you have anything on the motion
12 for relief from joint filing requirements?

13 MR. CLARK: What is it? I don't know what the
14 joint filing requirement is.

15 THE COURT: Well, our rules require some things
16 to be signed by both parties. And according to
17 Ms. Lively, it's been more difficult to get your
18 cooperation on that. Just --

19 MR. CLARK: Well --

20 THE COURT: Just a moment, Mr. Clark.

21 Ms. Lively, do you have anything more on that?

22 MS. LIVELY: Not on that specific motion, no,
23 Your Honor.

24 MR. CLARK: What is it that -- what is this
25 that I'm supposed -- my feeling is that I've got a

1 certain legal position based in evidence. Okay. The
2 evidence --

3 THE COURT: Hang on, Mr. Clark, okay. The
4 motion is granted.

5 Now, what exactly -- what relief or what are
6 the plaintiff's plans for this case? This does not
7 appear to be a matter that's well suited to a trial.
8 What do you hope to achieve?

9 MR. CLARK: Well --

10 THE COURT: No, no, Mr. Clark, I'm asking
11 Ms. Lively this.

12 MR. CLARK: I'm sorry, I apologize.

13 THE COURT: What are the bank's plans for the
14 case?

15 MS. LIVELY: Your Honor, we'd like two things.
16 One, we have broached the subject of mediation with
17 Mr. Clark. And, in fact, have -- if he will -- if he
18 finds a mediator, we've agreed to pay all costs for a
19 third-party mediator, whether that be a private mediator
20 that is somebody suitable for mediation or whether it's
21 something that the court does in order to try and
22 resolve that. And my understanding is Mr. Clark doesn't
23 think a third party is something he needs. So we
24 would -- you know, we would be willing to talk to
25 Mr. Clark about that, but we do feel that a third party

1 would be necessary in order to do that.

2 Beyond that, we'd like to move for a permanent
3 injunction. However, we need a judgment on the merits
4 to do that, so we'd like a summary judgment deadline so
5 that we can file for summary judgment and then move --
6 you know, if that were to be granted, then move for a
7 permanent injunction.

8 THE COURT: I'll give the parties 30 days to
9 file dispositive motions.

10 MR. CLARK: Okay. And so what I need to do is
11 get the motions to you. My motion, you know, would be,
12 number one, to resurrect my other motions, which I don't
13 think were really heard, and start going through the
14 evidence that I submitted to the court that was sealed.
15 In other words, I do believe that there is trial
16 because -- I'm going to put it all in a motion form, but
17 a lot of it's already in there, don't you guys see? A
18 lot of it's already been submitted, okay?

19 Now, Ms. Lively, with regard to mediation, my
20 understanding of mediation, that as soon as I agree to
21 that, then I give up all these rights. In other words,
22 well, it's like you kind of don't have any rights,
23 otherwise once you sign up for the mediation.
24 Furthermore, the way I look at it, a lot of this
25 material is sort of banking -- you know, it's

1 proprietary.

2 THE COURT: Let me --

3 MR. CLARK: So I can't go over that --

4 THE COURT: Mr. Clark, let me help you on
5 mediation, all right? Mediation is something that
6 people come together and someone helps them try to find
7 a solution they all can agree on. It's not that it is
8 imposed on them. They agree to meet. And the third
9 party tries to help find common ground. And so it's a
10 way of settling a matter. You don't give up other
11 rights by going to mediation. It's a way of trying to
12 resolve something short of the courtroom where everyone
13 agrees on the end result. I think that's what's being
14 proposed here.

15 MS. LIVELY: That is correct, Your Honor. We
16 wouldn't expect Mr. Clark to give up any rights unless
17 during the mediation there was, you know, a settlement
18 reached, and certainly not by going to the mediation
19 itself.

20 MR. CLARK: Okay. I need to -- see, here's the
21 thing, okay, I need everybody to understand that, you
22 know, that as hard as I try to act brave, I'm not that
23 brave. Okay? You know, as hard as I try to act mean,
24 I'm not mean. Okay? I try hard to withstand it, and I
25 can't stand it. I mean, they've hit me so hard, and the

10

1 family court is what kills me. I can't deal with that.
2 That's bizarre. And I just twist in the wind. It's
3 something that you guys don't understand, the emotional
4 and the physical effects of.

5 THE COURT: All right. What I'm going --

6 MR. CLARK: And it's caused a great
7 defensibility, it's caused --

8 THE COURT: Mr. Clark?

9 MR. CLARK: -- a lack of ability to deal with
10 this correctly.

11 THE COURT: Mr. Clark?

12 MR. CLARK: Yes, sir. Yes, Your Honor.

13 THE COURT: I'm going to give each of you two
14 weeks to suggest a mediator to me in writing.

15 MR. CLARK: Okay.

16 THE COURT: And I'll take a look at that and
17 I'll decide on our future situation of this case, all
18 right?

19 MR. CLARK: Yeah. That's what I'm thinking, if
20 you are the judge, right, are you Judge Hogan on the
21 phone with me here?

22 THE COURT: Yes, sir. And there is a chance --

23 MR. CLARK: I want to put it in your hands.
24 Whatever, Judge, it's like I told you, you tell me to go
25 into the third and I'll go into the third. You

11

1 understand? Whatever you tell me, I do. It's in your
2 hands.

3 THE COURT: Well --

4 MR. CLARK: That's what I'm saying, it's in
5 your hands. You're like my father and my mother in that
6 way, it's in your hands. I can't deal with it. You got
7 it all. I don't believe in having stuff spewed all over
8 and everything. I just want things done whatever,
9 fastest way. If you know a good mediator, just maybe
10 recommend, I'll look in the phone book, how about that?
11 I'll want it to be okay with Ms. Lively, too, okay?

12 THE COURT: All right. And by the way I'm --

13 MR. CLARK: I don't want no problems.

14 THE COURT: I'm going to take a look at who you
15 suggest. I might do it myself. I'm a pretty good
16 mediator myself.

17 MR. CLARK: Yes, sir. And, again, I am the
18 nicest person but I kind of got tweaked, you understand?
19 And other people do weird things and I try to just show
20 people in this very private but sort of not private way,
21 we can't have a society like this. We have to --

22 THE COURT: Mr. Clark.

23 MR. CLARK: -- let -- okay, yes, Your Honor,
24 I'm going to shut up, okay.

25 THE COURT: I've got a really busy calendar. I

12

1 don't have any more today, but we'll talk after --

2 MS. LIVELY: Your Honor, I'm sorry, I
3 understand you have to go. Would it be possible to get
4 a dispositive motion deadline after the mediation, like
5 30 days following the mediation?

6 THE COURT: Yes, but let's go ahead right --
7 yeah, okay --

8 MR. CLARK: Do I have to respond to the
9 motion --

10 THE COURT: Actually, I'll do that. I'll take
11 off the 30-day situation. That's fine with me. We'll
12 do a mediation first, and either with someone you
13 suggest or I will do it. I haven't decided. All right?

14 MS. LIVELY: Thank you, Your Honor.

15 MR. CLARK: Yeah, whatever is good, Your Honor.
16 I just want it resolved.

17 THE COURT: All right. Thank you very much.
18 We're in recess.

19 (The proceedings were concluded at 9:47 a.m.)
20
21
22
23
24
25

1 CERTIFICATE

2 I, Deborah Wilhelm, Certified Shorthand Reporter
3 for the State of Oregon, do hereby certify that I was
4 present at and reported in machine shorthand the oral
5 proceedings had in the above-entitled matter. I hereby
6 certify that the foregoing is a true and correct
7 transcript, to the best of my skill and ability, dated
8 this 8th day of February, 2016.

9
10
11 /s/ Deborah Wilhelm

12 _____
13 Deborah Wilhelm, RPR
14 Certified Shorthand Reporter
15 Certificate No. 00-0363
16
17
18
19
20
21
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25

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
Eugene, Oregon Division**

Andrew Clark, Plaintiff
3270 Stoney Ridge Rd.
Eugene, OR 97405 541.510.3915
OperationSunriseLaw@gmail.com

Civil Complaint Case: 6: cv 20-00253-aa

Wells Fargo and Company
420 Montgomery St. San Francisco, CA 94163
as Voluntary or Mandatory
Intervenor for Plaintiff
(Subject to FRCP 24)

Partial Reply to Responses
Filed April 20, 2020

vs. Defendants:

Wells Fargo Bank et al

Reply to Responses (partial)

Thank you very much for your responses to Civil Case 20-00253. Before getting into that I want to share some exciting news I learned last week: Honorable Judge Michael Hogan (ret.) is joining our Team! He is bringing with him Jared Hager, Assistant United States Attorney (AUSA)- Civil Division. I also made good contact with Pam Holister AUSA – Criminal Division.

Docket 56 ‘federal witness tampering’ contains a police report page dated July 19, 2011. Judge Michael Hogan accepted Wells Fargo’s Emergency SLAPP Suit 11-06248 filed on “emergency basis” in early August 2011 by Ogletree Deakins. The attachment is a transcript of the third hearing in that court. It was by telephone on May 8, 2012. It was not in PACER until I paid to have it transcribed in early 2016. It is ‘absolutely must read’.

Most of you are named in this lawsuit as Defendants so you can be absolved and held harmless by acting as ‘witness’. You based your actions (described in complaint) upon elaborate lies of Wells Fargo/Ogletree Deakins, just as did Judge Hogan. I urge each of you to withdraw or modify your response to conform to the new information. Pleading to FRCP 8-E is one method as I describe within this document.

April 20, 2020 Reply to Responses Case 6.20.cv.00253.aa Clark vs. Wells Fargo et al Page 1 of 5

My complaint is based on facts and already-discovered evidence that would fully support criminal indictments for RICO and/or the underlying RICO Crimes. The public corruption includes text-book examples Hobbs Act violations, 18 USC 1951 which was expanded to include 'third party benefits awarded under color of official rights'. But this case went further. Use of false arrest and jailing by armed police against a Federal Witness is a primary metric of "organized crime".

I urge each of you to reference these two DOJ manuals. My complaint, its factual basis, and the supporting evidence fully conforms to the Criminal RICO manual. It along with the referenced PACER records are a ready-to-go criminal complaint.

Criminal RICO Manual <https://www.justice.gov/archives/usam/file/870856/download>

Civil RICO Manual: <https://www.justice.gov/sites/default/files/usam/legacy/2014/10/17/civrico.pdf>

This reply covers most of my objections to responses but it was rushed. The responses are voluminous and I am not through them yet. I motioned for extra time and was granted a partial extension that did not fulfill the objective. I also noticed that my Motion submitted under FRCP 24 for Wells Fargo and Company as Intervenor was denied. Denial is not the problem: it is the total lack of discussion with no reason being provided.

The way the COURT STAFF handled both of those motions under the circumstances prompted me to file Docket 56, report the situation to all of the DOJ Offices of Inspector General, and make telephone contact with Ms. Holister. That is exactly how the enterprise used the courts to bypass evidence in past proceedings. I am not replying to Ogletree Deakins' April 9, 2020 response with this document as it is not due yet. And I believe that Judge Hogan and Oregon's AG (Defendant Rosenblum et al) will want "first crack" at Wells Fargo/Ogletree Deakins which just might prompt speedy resolution.

Docket 56 – Federal Witness Tampering, RICO, and You

RICO Makes You Culpable for the Results of the Enterprise

Clayton/Sherman ATA Makes the Corporate Entities Culpable for RICO by it's Agents

Defendant-Attorneys: Federal Witness Tampering occurred. Docket 56 is a Federal Crime Report. It is one page of a police report, two federal investigation acceptance letters, and a printout of Criminal Resource Manual 1729. Federal Witness Tampering occurred by definition and without regard to any other facts. Wells Fargo brought in Ogletree Deakins against me while still employed. Ex. 56 contains a two-page news article from Maricopa County, AZ in the same general timeframe demonstrating that Ogletree Deakins (a national

firm) has a history of using the same tactics elsewhere, another metric of Racketeering and Organized Crime as well as the need for Clayton/Sherman ATA.

The Tampering events described in my complaint include physically violent federal felonies that constitute RICO. RICO makes YOU culpable for the results of the Enterprise. The Hobbs Act violations involved rampant, systemic public corruption. A complete evidence base was repeatedly submitted to the court and was obstructed with pleadings much like the ones Defendants used in this proceeding coupled with fraudulent use of official systems along with legal battery of me.

Criminal Violation of Sarbanes-Oxley (SOX) Legislation and 18 USC 1519

Attention Wells Fargo Responsible Corporate Officers and
Ogletree Deakins / Seyfarth Shaw Partners and/or Shareholders

As disclosed in Docket 56, a SOX investigation (not Dodd-Frank) that included internal reporting was in process at Department of Labor/OSHA when the witness tampering started. “Yates” is a 2015 Supreme Court case that clarified “tangible object” as it relates to 18 USC 1519 that rose from SOX. The court is intangible. The court systems and PACER are tangible objects into which I submitted facts/evidence. Any pleading or action that had the effect of obstructing and bypassing adjudication of facts/evidence violated 18 USC 1519. The SOX legislation extends criminal culpability to the Wells Fargo RCO’s along with Partners and/or Shareholders of Ogletree Deakins and Seyfarth Shaw.

It is beneficial to accept the above as generally true unless you can point out anything that meaningfully contradicts it. Attorney-Defendants, please take a look and I am hopeful you will agree the Ginsburg Court mused that nothing in the law prevents a criminal situation from having no penalty or even rewards if the social benefit justifies it. The factual basis and evidence supports Alternative Dispute Resolution in which ALL OF US can make shameless-but-righteous Progress.

Defenses Based on Res Judicata and Statutes of Limitations

Tolling Begins When Obstruction of Evidence Placed Into the Court Ends

A claim of Res Judicata in this situation represents perjury and continued obstruction of justice that gravely endangered Wells Fargo and the general public. The PACER records of

the prior cases stands as timeless, unequivocal proof that all facts and evidence I placed into the court in any conceivable format were all bypassed and were not adjudicated.

Many Defendants incorrectly claimed the matter was outside of statutes of limitations and time bars. All facts and evidence were placed into the court systems and bypassed via obstructive pleadings as demonstrated in PACER. Each defendant is subject to the 10 year RICO window. The predicate acts occurred within a four year period. A convincing body of evidence supporting the facts was repeatedly placed into the court and then bypassed completely. All case law involving major obstructed evidence says what common sense confirms: tolling begins when obstruction ends.

Defenses Based on FRCP 12(b)(6) vs. FRCP 8-E

Motions to dismiss based upon FRCP 12(b)(6) are clearly not appropriate to the factual basis and evidence in this case. It will take you less than 10 minutes absorbing Docket 56 and you will instinctively feel you may have acted upon false and wrongful information that had the result of tampering with a federal witness. Most of you were used by Attorney Pollino's clients as agents of their tampering and obstruction of justice (bypassing the factual basis and evidence). Think back, check records and try to remember what information you were provided and by who that caused you to do as I allege in the FRCP 9 pleading. Read up on "vicarious vs. active participation" and your duties as attorneys to have done differently in retrospect. Then consider pleading to FRCP 8-E as I use in an example below.

Defenses Based on Immunity

First and foremost: The primary reason to include an "immune person" such as Oregon's Attorney General Rosenblum in a lawsuit is to demonstrate to them how the government agency was wrongly influenced by Wells Fargo/Ogletree Deakins. It is the best and only way for a citizen to formally provide them a good reason to FOLLOW THE LAW AND CORRECT THE DAMAGE THEY DID. No person enjoys complete immunity if they commit a crime. Also, I included Exhibit 11, an Amicus Curiae in a recent New York case in which a judge concluded President Trump does not have complete immunity. If he doesn't...none of us should. To be honest, I have not read State's response yet due to being rushed as described in the introduction.

Defendant Attorneys: Opportunity is Knocking Hard

Defendant Bruce Newton is my ex-wife's divorce attorney. I accused him in the complaint in some detail. Without any regard to that: Docket 56 (CRM 1729) specifies HIS CLIENT is entitled to relief of damages caused by federal witness tampering. I am hopeful Defendant Newton joins me because that is what is both right and righteous and I would like to discuss it with him privately. I await his call so we can talk about real progress for all.

I will use Defendant Barry Davis as an example that in one way or another applies to all or most Defendants. It is legally and ethically correct to plead to FRCP 8-e "Pleadings must be construed so as to do justice." I paid Defendant Davis a lot of money to file an appeal for 11-06248 which was never filed despite assurances otherwise. On several occasions he mentioned to me that Defendant Lively called him. My impression was that she applied a lot of pressure upon him and certainly did not mention that Federal Witness Tampering she was trying to conceal. I personally heard how she pressured Judge Hogan and you can read the attached tele-hearing transcript where she is badgering the judge about her burning need for "Motion 78" to be approved. The transcript does not reflect the shrill urgency in her voice that a recording would as she openly treated Judge Hogan as a child-lackey. Have tissue on hand as that "absolutely must read" transcript will likely cause you to shed tear for the Court, Judge Hogan, my family, and myself... and yourself.

So I can only imagine what she was saying to Attorney Barry Davis that paralyzed him. I think Mr. Davis (et al) would rather summarize it briefly in this court and be absolved and held harmless rather than explaining it in infinite detail to a team of state and federal investigators and having to provide all the telephone and income tax records related to the very significant amount of money involved, etc. Similar could be said for all Defendants. Please feel free to contact me any time. I do not record calls and you are also welcome to visit. Thank you all.

Signed and Sworn to as Truth on April 20, 2020.

/s Andrew Clark

Andrew (Andy) Clark, Plaintiff 3270 Stoney Ridge Rd. Eugene, OR 97405 541.510.3915
OperationSunriseLaw@gmail.com www.RisePatriot.com www.WellsFargoWitz.com

www.WellsFargoRICO.com www.DoggyMcStyleLaw.com www.DistrictCourtOregon.com
Solution Metaphor: www.TheEugeneBlairProject.com.

Exhibit for Reply to Responses as described in the reply document 4-20-20

1

1 UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF OREGON
 3 WELLS FARGO BANK, N.A.,)
 4 Plaintiff,) No. 6:11-cv-06248-AA
 5 v.) May 8, 2012
 6 ANDREW G. CLARK,) Eugene, Oregon
 7 Defendant.)

8
 9 TRANSCRIPT OF TELEPHONE ORAL ARGUMENT
 10 BEFORE THE HONORABLE MICHAEL R. HOGAN
 11 UNITED STATES DISTRICT COURT JUDGE

12
 13
 14 -:-

15 APPEARANCES OF COUNSEL VIA TELEPHONE
 16
 17 FOR THE PLAINTIFF: LEAH C. LIVELY
 18 Ogletree Deakins Nash Smoak &
 19 Stewart
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 (503) 552-2140
 leah.lively@ogletreedeakins.com
 21 FOR THE DEFENDANT: ANDREW G. CLARK, pro se
 22 3270 Stoney Ridge Road
 Eugene, OR 97405
 (541) 510-3915
 23 Court Reporter: Deborah Wilhelm, CSR, RPR
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 P.O. Box 1504
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 (541) 505-0760

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9 THE COURT: Thank you. I'm familiar with the
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25 happened back in July, which I got on their own audio

1 and you can talk to them about it, it's pretty clear. I
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5 I put it all online. And then they came at night to my
6 house and they did not have a warrant at the time they
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6 and the policy. So let's get this out of the courts,
7 you know, let's get this back to a nice friendly thing
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19 subjected to a corporate process, something that lawyers
20 spend 10 years, 20 years, they don't care. I'm just me.
21 I'm 53. This is killing me, you know, faster than I
22 thought it might, okay? And so I really don't know what
23 to do. I honestly don't.

24 Last time I was there, I was told not to file
25 motions except through the federal system, well, I feel

5

1 a little nervous about filing motions through the
2 federal systems. I'm pretty handy with systems. I
3 don't want to get in any trouble with the system guys.
4 So I don't know what to tell you.

5 Whatever it is we need to do, you know, I
6 didn't appeal this, had a judgment back in January. The
7 way I see it, there wasn't a grain of truth in it, but,
8 again, I don't want to be contentious with anybody, you
9 understand? I'm right here in my house. You know, I
10 ain't hiding from anybody. And I just need some relief
11 from the court in a different way. I'm just a human. I
12 don't have the knowledge and I don't have the time and I
13 don't think it's right in this small community to be
14 dragging all the little people through this.

15 I wrote a letter to my congressman on April
16 10th and he says, well, we suggest you talk to Kitty
17 Piercy on the town city council. You know, it's really
18 infuriating to me, because I've been trying -- I've got
19 letters after letters after letters. And, you know, I
20 posted it all on my Web site and I tried to make it so
21 people wouldn't see it fast. You know, I tried to make
22 it so it was hard to get to. And then I kind of moved
23 it around a little bit, but I just want to get on with
24 my life. Don't you understand?

25 I've got people who Google me and look what

6

1 they see, they see these federal actions, right? You
2 know, so I don't know what to do. If it's -- Judge, if
3 you're there, or Your Honor, anybody in the FBI,
4 whatever you all need, but I need you to all look at
5 what I've put into that court and the fact that I don't
6 want to be dragging it through the mud. That's my only
7 objective. I go into court and I just shut my mouth,
8 because it's me, and I can deal with it, and I don't
9 want to be dragging through the courts, it's not right.

10 THE COURT: Well, Mr. Clark -- okay, Mr. Clark.

11 Ms. Lively, do you have anything on the motion
12 for relief from joint filing requirements?

13 MR. CLARK: What is it? I don't know what the
14 joint filing requirement is.

15 THE COURT: Well, our rules require some things
16 to be signed by both parties. And according to
17 Ms. Lively, it's been more difficult to get your
18 cooperation on that. Just --

19 MR. CLARK: Well --

20 THE COURT: Just a moment, Mr. Clark.

21 Ms. Lively, do you have anything more on that?

22 MS. LIVELY: Not on that specific motion, no,
23 Your Honor.

24 MR. CLARK: What is it that -- what is this
25 that I'm supposed -- my feeling is that I've got a

1 certain legal position based in evidence. Okay. The
2 evidence --

3 THE COURT: Hang on, Mr. Clark, okay. The
4 motion is granted.

5 Now, what exactly -- what relief or what are
6 the plaintiff's plans for this case? This does not
7 appear to be a matter that's well suited to a trial.
8 What do you hope to achieve?

9 MR. CLARK: Well --

10 THE COURT: No, no, Mr. Clark, I'm asking
11 Ms. Lively this.

12 MR. CLARK: I'm sorry, I apologize.

13 THE COURT: What are the bank's plans for the
14 case?

15 MS. LIVELY: Your Honor, we'd like two things.
16 One, we have broached the subject of mediation with
17 Mr. Clark. And, in fact, have -- if he will -- if he
18 finds a mediator, we've agreed to pay all costs for a
19 third-party mediator, whether that be a private mediator
20 that is somebody suitable for mediation or whether it's
21 something that the court does in order to try and
22 resolve that. And my understanding is Mr. Clark doesn't
23 think a third party is something he needs. So we
24 would -- you know, we would be willing to talk to
25 Mr. Clark about that, but we do feel that a third party

1 would be necessary in order to do that.

2 Beyond that, we'd like to move for a permanent
3 injunction. However, we need a judgment on the merits
4 to do that, so we'd like a summary judgment deadline so
5 that we can file for summary judgment and then move --
6 you know, if that were to be granted, then move for a
7 permanent injunction.

8 THE COURT: I'll give the parties 30 days to
9 file dispositive motions.

10 MR. CLARK: Okay. And so what I need to do is
11 get the motions to you. My motion, you know, would be,
12 number one, to resurrect my other motions, which I don't
13 think were really heard, and start going through the
14 evidence that I submitted to the court that was sealed.
15 In other words, I do believe that there is trial
16 because -- I'm going to put it all in a motion form, but
17 a lot of it's already in there, don't you guys see? A
18 lot of it's already been submitted, okay?

19 Now, Ms. Lively, with regard to mediation, my
20 understanding of mediation, that as soon as I agree to
21 that, then I give up all these rights. In other words,
22 well, it's like you kind of don't have any rights,
23 otherwise once you sign up for the mediation.
24 Furthermore, the way I look at it, a lot of this
25 material is sort of banking -- you know, it's

1 proprietary.

2 THE COURT: Let me --

3 MR. CLARK: So I can't go over that --

4 THE COURT: Mr. Clark, let me help you on
5 mediation, all right? Mediation is something that
6 people come together and someone helps them try to find
7 a solution they all can agree on. It's not that it is
8 imposed on them. They agree to meet. And the third
9 party tries to help find common ground. And so it's a
10 way of settling a matter. You don't give up other
11 rights by going to mediation. It's a way of trying to
12 resolve something short of the courtroom where everyone
13 agrees on the end result. I think that's what's being
14 proposed here.

15 MS. LIVELY: That is correct, Your Honor. We
16 wouldn't expect Mr. Clark to give up any rights unless
17 during the mediation there was, you know, a settlement
18 reached, and certainly not by going to the mediation
19 itself.

20 MR. CLARK: Okay. I need to -- see, here's the
21 thing, okay, I need everybody to understand that, you
22 know, that as hard as I try to act brave, I'm not that
23 brave. Okay? You know, as hard as I try to act mean,
24 I'm not mean. Okay? I try hard to withstand it, and I
25 can't stand it. I mean, they've hit me so hard, and the

10

1 family court is what kills me. I can't deal with that.
2 That's bizarre. And I just twist in the wind. It's
3 something that you guys don't understand, the emotional
4 and the physical effects of.

5 THE COURT: All right. What I'm going --

6 MR. CLARK: And it's caused a great
7 defensibility, it's caused --

8 THE COURT: Mr. Clark?

9 MR. CLARK: -- a lack of ability to deal with
10 this correctly.

11 THE COURT: Mr. Clark?

12 MR. CLARK: Yes, sir. Yes, Your Honor.

13 THE COURT: I'm going to give each of you two
14 weeks to suggest a mediator to me in writing.

15 MR. CLARK: Okay.

16 THE COURT: And I'll take a look at that and
17 I'll decide on our future situation of this case, all
18 right?

19 MR. CLARK: Yeah. That's what I'm thinking, if
20 you are the judge, right, are you Judge Hogan on the
21 phone with me here?

22 THE COURT: Yes, sir. And there is a chance --

23 MR. CLARK: I want to put it in your hands.
24 Whatever, Judge, it's like I told you, you tell me to go
25 into the third and I'll go into the third. You

1 understand? Whatever you tell me, I do. It's in your
2 hands.

3 THE COURT: Well --

4 MR. CLARK: That's what I'm saying, it's in
5 your hands. You're like my father and my mother in that
6 way, it's in your hands. I can't deal with it. You got
7 it all. I don't believe in having stuff spewed all over
8 and everything. I just want things done whatever,
9 fastest way. If you know a good mediator, just maybe
10 recommend, I'll look in the phone book, how about that?
11 I'll want it to be okay with Ms. Lively, too, okay?

12 THE COURT: All right. And by the way I'm --

13 MR. CLARK: I don't want no problems.

14 THE COURT: I'm going to take a look at who you
15 suggest. I might do it myself. I'm a pretty good
16 mediator myself.

17 MR. CLARK: Yes, sir. And, again, I am the
18 nicest person but I kind of got tweaked, you understand?
19 And other people do weird things and I try to just show
20 people in this very private but sort of not private way,
21 we can't have a society like this. We have to --

22 THE COURT: Mr. Clark.

23 MR. CLARK: -- let -- okay, yes, Your Honor,
24 I'm going to shut up, okay.

25 THE COURT: I've got a really busy calendar. I

12

1 don't have any more today, but we'll talk after --

2 MS. LIVELY: Your Honor, I'm sorry, I
3 understand you have to go. Would it be possible to get
4 a dispositive motion deadline after the mediation, like
5 30 days following the mediation?

6 THE COURT: Yes, but let's go ahead right --
7 yeah, okay --

8 MR. CLARK: Do I have to respond to the
9 motion --

10 THE COURT: Actually, I'll do that. I'll take
11 off the 30-day situation. That's fine with me. We'll
12 do a mediation first, and either with someone you
13 suggest or I will do it. I haven't decided. All right?

14 MS. LIVELY: Thank you, Your Honor.

15 MR. CLARK: Yeah, whatever is good, Your Honor.
16 I just want it resolved.

17 THE COURT: All right. Thank you very much.
18 We're in recess.

19 (The proceedings were concluded at 9:47 a.m.)
20
21
22
23
24
25

1 CERTIFICATE

2 I, Deborah Wilhelm, Certified Shorthand Reporter
3 for the State of Oregon, do hereby certify that I was
4 present at and reported in machine shorthand the oral
5 proceedings had in the above-entitled matter. I hereby
6 certify that the foregoing is a true and correct
7 transcript, to the best of my skill and ability, dated
8 this 8th day of February, 2016.

9
10
11 /s/ Deborah Wilhelm

12 _____
13 Deborah Wilhelm, RPR
14 Certified Shorthand Reporter
15 Certificate No. 00-0363
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FAX COVER SHEET

TO	Christopher Mixon Ogletree- Nashville
COMPANY	
FAX NUMBER	16152541908
FROM	Andrew Clark
DATE	2020-04-27 19:05:30 GMT
RE	20-00253 Filed 4.27.20

COVER MESSAGE

David Campbell, Ellen Rosenblum, Alex Gardner, Amber Hollister, Barry Davis, Ben Miller, Ben Gutman, Bruce Newton, C. Matthew Keen, Christian Rowley, Christopher Mixon, David P.R. Symes, Erik Hasselman, Leah Lively, Peter Urias

From Andy Clark 541.510.3915

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Eugene, Oregon Division**

Andrew Clark, Plaintiff
3270 Stoney Ridge Rd.
Eugene, OR 97405 541.510.3915
OperationSunriseLaw@gmail.com

Wells Fargo and Company
420 Montgomery St. San Francisco, CA 94163
as Voluntary or Mandatory
Intervenor for Plaintiff

Civil Complaint Case: 6.cv-20-253-aa

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April 27, 2020

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I see no evidence that anyone at Wells Fargo is aware of the actual details of this situation. That only makes it worse; it does not excuse them. All indications are that the involved attorneys do whatever they want in the name of Wells Fargo...which pays the bill endlessly without ever being aware of why they are in court. As necessary, I will input another motion later for Wells Fargo and Company to intervene on mandatory basis.

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Signed and Sworn to as Truth

/s Andrew Clark

Plaintiff Pro Se Andrew Clark 3270 Stoney Ridge Rd. Eugene, Oregon 97405

541.510.3915 www.RisePatriot.com (police/court av) www.WellsFargoWitz.com (family court av)

To: Christopher Mixon Ogletree- Nashville Page 6 of 6 2020-04-27 19:06:13 (GMT)

14157043294 From: Andrew Clark

4/26/2020

Gmail - Let's Talk Progress. We are VICTIMS. Bar Association and the Courts was



Operation SunriseLAW <operationsunriselaw@gmail.com>

Let's Talk Progress. We are VICTIMS. Bar Association and the Courts was

1 message

Operation SunriseLAW <operationsunriselaw@gmail.com>

Thu, Apr 23, 2020 at 12:21 PM

To: Nik Chourey <nchourey@osbar.org>, pamala.holsinger@usdoj.gov

Nik.... I am sending this only to you and Pamala Holsinger, AUSA. Bar Association and the Courts were 'punked' by Wells Fargo/Ogletree Deakins elaborately constructed lies that represent their nationwide business model. I am pretty sure you (and everyone else) is suddenly horrified when they saw that simple proof of federal witness tampering (docket 56). That is why I think we should find some way to settle our situation in ADR... I am certain my case is both right and righteous. I have been at this way longer than any citizen should have to. I am a victim in need of relief. I honestly think you folks should reach out with healing hands.

Here is the problem and it even affects my response due them pursuant to their April 9 response filing. All my obligations continue as this drags on. Also.... Judge Michael Hogan will most likely show absolutely no mercy for Leah Lively, Ogletree Deakins, and Steven Seymour. He trusted her as you can see in the other attachment (the motion 78 transcript). Think of that crime: lying to a federal judge about a bank emergency in order to use the court as a method of concealing their highly physical federal witness tampering....and then billing it out to the bank.

The police report in Docket 56 is dated July 11, 2011 and it clearly implicates Wells Fargo and Ogletree in:

1. Corruption of our local police in a very demeaning, insulting way
2. Corruption of FBI Processes
3. Systematically lying to Judge Hogan to get him to accept the SLAPP on emergency basis.
4. Use of official system to self-generate a large cost bill against me (dkt 137 in 11.06248)
5. The worst possible RICO crimes against me. They are actually worse than simple murder in this corporate case. That is why we do Clayton/Sherman.
6. Lying to Eric Hasselman, our then-major violent crimes prosecutor to the extent it constitutes a Hobbs Act violation. Steven Seymour knew exactly what he was doing...he may not have been told WHY..
7. Viciously concealing it in all courts including this one with obvious lies and perjury that represent just another act of RICO in their continuing crime spree.
8. Fraudulently using (or causing others to use) official systems against the law and the evidence. Worst is the possible fraudulent use of NIBRS detailed in my complaint due to infinite downstream effects of entry into that database...they would have told Judge Hogan I was considered a violent threat and the judge would have trusted the NCIC-Nibrs record. Who could imagine Wells Fargo and Ogletree Deakins doing stuff like that?

The flagrant, devious nature of the crimes by Leah Lively, David PR Symes, Ogletree Deakins, and Steven Seymour are the worst crimes ever committed by a group of attorneys... ever. Nothing like it has ever been seen in a federally insured banking situation. It is the very pinnacle of crime. It is just like Murdering the Justice System. And...they do it in a fashion to make it all sound CRAZY.

Anyway.... imagine it was YOU they did all that really nasty to you.... you would want to put it in Higher Hands because the situation is worse than worst, settle, and move on. I should not have to worry about this every day. Thanks from Andy Clark 541.510.3915

2 attachments

Case 20-000253 Reply-Copy.pdf
319K

motionfact1_optimize.pdf
2202K

FAX COVER SHEET

TO	C. Matthew Keen Ogletree-Raleigh
COMPANY	
FAX NUMBER	19197839412
FROM	Andrew Clark
DATE	2020-04-27 19:05:27 GMT
RE	20-00253 Filed 4.27.20

COVER MESSAGE

David Campbell, Ellen Rosenblum, Alex Gardner, Amber Hollister, Barry Davis, Ben Miller, Ben Gutman, Bruce Newton, C. Matthew Keen, Christian Rowley, Christopher Mixon, David P.R. Symes, Erik Hasselman, Leah Lively, Peter Urias

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Plaintiff Pro Se Andrew Clark 3270 Stoney Ridge Rd. Eugene, Oregon 97405

541.510.3915 www.RisePatriot.com (police/court av) www.WellsFargoWitz.com (family court av)

To: C. Matthew Keen Ogletree-Raleigh Page 6 of 6 2020-04-27 19:09:37 (GMT)

14157043294 From: Andrew Clark

4/26/2020

Gmail - Let's Talk Progress. We are VICTIMS. Bar Association and the Courts was



Operation SunriseLAW <operationsunriselaw@gmail.com>

Let's Talk Progress. We are VICTIMS. Bar Association and the Courts was

1 message

Operation SunriseLAW <operationsunriselaw@gmail.com>

Thu, Apr 23, 2020 at 12:21 PM

To: Nik Chourey <nchourey@osbar.org>, pamala.holsinger@usdoj.gov

Nik.... I am sending this only to you and Pamala Holsinger, AUSA. Bar Association and the Courts were 'punked' by Wells Fargo/Ogletree Deakins elaborately constructed lies that represent their nationwide business model. I am pretty sure you (and everyone else) is suddenly horrified when they saw that simple proof of federal witness tampering (docket 56). That is why I think we should find some way to settle our situation in ADR... I am certain my case is both right and righteous. I have been at this way longer than any citizen should have to. I am a victim in need of relief. I honestly think you folks should reach out with healing hands.

Here is the problem and it even affects my response due them pursuant to their April 9 response filing. All my obligations continue as this drags on. Also.... Judge Michael Hogan will most likely show absolutely no mercy for Leah Lively, Ogletree Deakins, and Steven Seymour. He trusted her as you can see in the other attachment (the motion 78 transcript). Think of that crime: lying to a federal judge about a bank emergency in order to use the court as a method of concealing their highly physical federal witness tampering....and then billing it out to the bank.

The police report in Docket 56 is dated July 11, 2011 and it clearly implicates Wells Fargo and Ogletree in:

1. Corruption of our local police in a very demeaning, insulting way
2. Corruption of FBI Processes
3. Systematically lying to Judge Hogan to get him to accept the SLAPP on emergency basis.
4. Use of official system to self-generate a large cost bill against me (dkt 137 in 11.06248)
5. The worst possible RICO crimes against me. They are actually worse than simple murder in this corporate case. That is why we do Clayton/Sherman.
6. Lying to Eric Hasselman, our then-major violent crimes prosecutor to the extent it constitutes a Hobbs Act violation. Steven Seymour knew exactly what he was doing...he may not have been told WHY..
7. Viciously concealing it in all courts including this one with obvious lies and perjury that represent just another act of RICO in their continuing crime spree.
8. Fraudulently using (or causing others to use) official systems against the law and the evidence. Worst is the possible fraudulent use of NIBRS detailed in my complaint due to infinite downstream effects of entry into that database...they would have told Judge Hogan I was considered a violent threat and the judge would have trusted the NCIC-Nibrs record. Who could imagine Wells Fargo and Ogletree Deakins doing stuff like that?

The flagrant, devious nature of the crimes by Leah Lively, David PR Symes, Ogletree Deakins, and Steven Seymour are the worst crimes ever committed by a group of attorneys... ever. Nothing like it has ever been seen in a federally insured banking situation. It is the very pinnacle of crime. It is just like Murdering the Justice System. And...they do it in a fashion to make it all sound CRAZY.

Anyway.... imagine it was YOU they did all that really nasty to you.... you would want to put it in Higher Hands because the situation is worse than worst, settle, and move on. I should not have to worry about this every day. Thanks from Andy Clark 541.510.3915

2 attachments

Case 20-000253 Reply-Copy.pdf
319K

motionfact1_optimize.pdf
2202K

From: [John E. Pollino](#)
To: [Elizabeth L. Polay](#); [Kim E. Hoyt](#); [Jade M. Bostwick](#)
Subject: FW: Reply filed yesterday to Mr. Pollino's clients. It relates to all Defendants
Date: Tuesday, April 28, 2020 8:43:28 AM
Attachments: [2020oglereply.pdf](#)

From: Operation SunriseLAW <operationsunriselaw@gmail.com>
Sent: Tuesday, April 28, 2020 8:34 AM
To: John E. Pollino <jpollino@ghrlawyers.com>
Subject: Fwd: Reply filed yesterday to Mr. Pollino's clients. It relates to all Defendants

----- Forwarded message -----

From: **Operation SunriseLAW** <operationsunriselaw@gmail.com>
Date: Tue, Apr 28, 2020 at 8:33 AM
Subject: Reply filed yesterday to Mr. Pollino's clients. It relates to all Defendants
To: <bsime@pbswlaw.com>, Rowley, Christian <crowley@seyfarth.com>, David Jacobs <djacobs@luvaascobb.com>, <hgo@eugene-or.gov>, Spooner Jessica <Jessica.Spooner@doj.state.or.us>, <sebastian.tapia@co.lane.or.us>, Tom Spooner <tspooner@smapc.com>

We are all VICTIMS of what Wells Fargo and Mr. Pollino's clients perpetrated upon our community. They are a bad case of Anal Worms who bleed their clients from the bottom up. They are also the ACTIVE RICO participants.

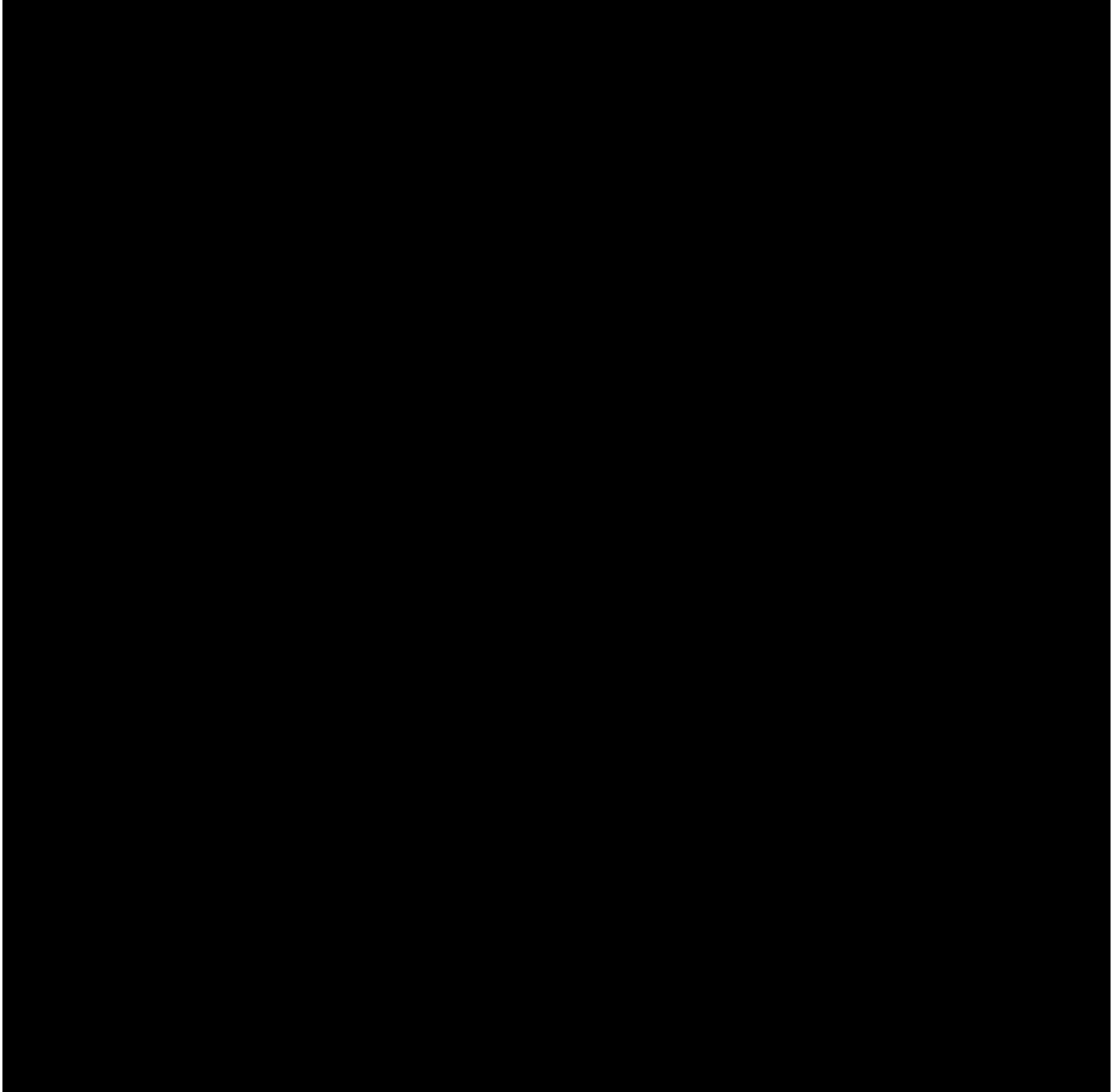
You (or your clients) are being sued for vicarious participation in a RICO enterprise that engaged in violent tampering of a federal witness. For most Defendants, all you need do is "the right thing" now because you now reasonably know you acted against me based on LIES of your fellow attorneys.

So.... let's talk ADR !!!

Time to 'Stop Their Concealing and Start Our Healing !!!



Attachments: [theybbad.pdf](#)
[image001.jpg](#)
[image002.png](#)



From: ANDY CLARK [mailto:mir99@comcast.net]

Sent: Wednesday, April 29, 2020 6:51 AM

To: matt.keen@ogletree.com; leahlively@dwt.com; dsymes@littler.com;
christopher.mixon@ogletree.com; judge@hoganmediation.net; osp.forensics@state.or.us;
Erik.Hasselman@lanecountyor.gov; Steve Seymour (x102); benjamin.gutman@doj.state.or.us;
barry@barrydavislaw.com; David.Campbell@lewisbrisbois.com; info@bromleynewton.com;

ellen.f.rosenblum@doj.state.or.us; sebastian.tapia@co.lane.or.us; ben.j.miller@ci.eugene.or.us;
vanessa.a.nordyke@doj.state.or.us; boardcommunications@wellsfargo.com

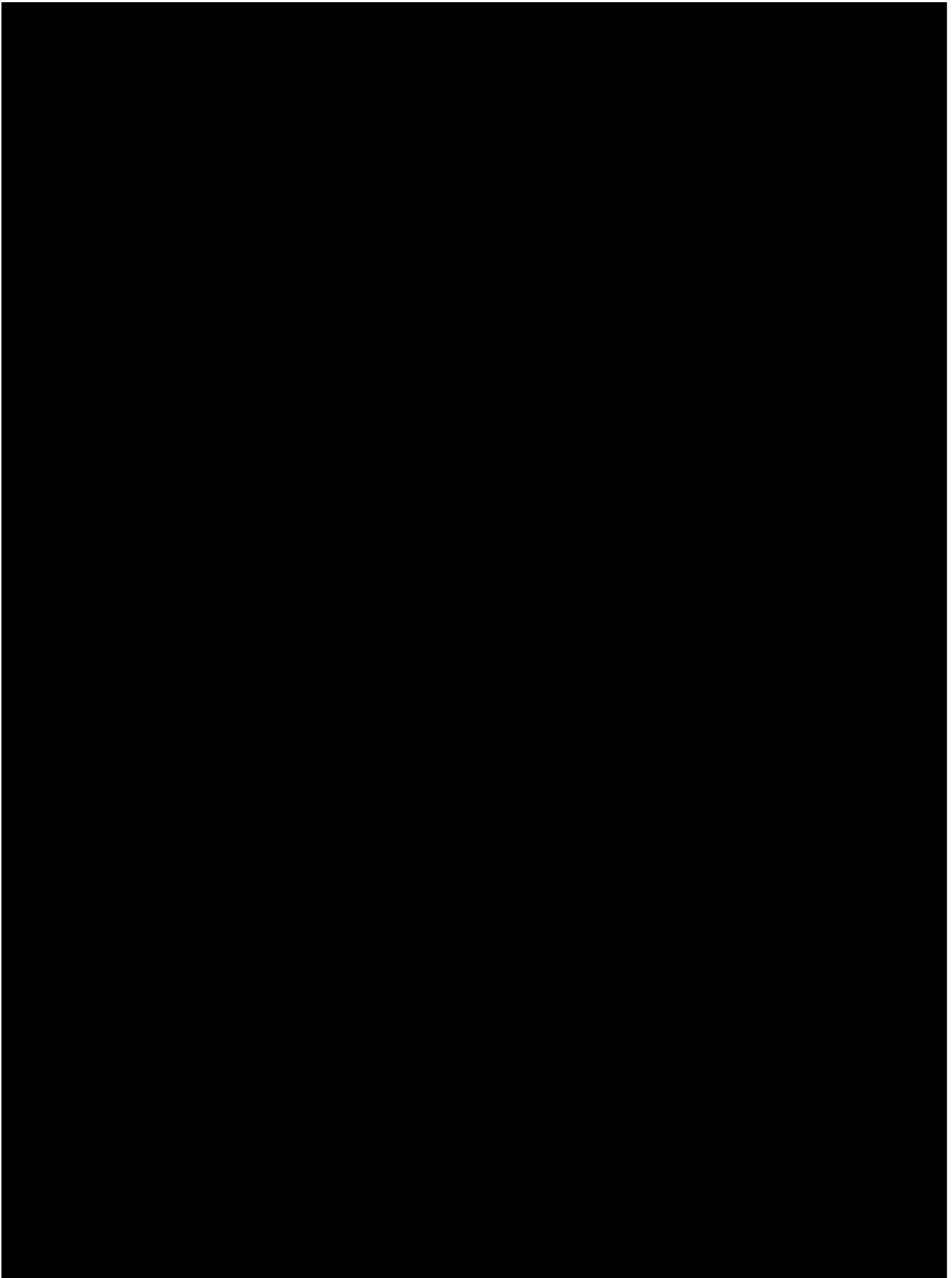
Subject: Public would Panic

Attached is a cornucopia of news articles and even a very unusual lawsuit filed by Ogletree Deakins in Maricopa County, AZ in the "Sheriff Joe" case. Look what they do to people and government agencies, it is beyond the pale. Imagine the public panic when they learn employment attorneys can have them taken in chains from their homes without valid warrants by simply calling in bogus police reports. They got caught in AZ, time to catch them here. This was in the same general timeframe as when they had me first false-arrested as described in detail in my Complaint 20-000253. Mr. Pollino and his clients are covering up hard, cold CRIME. Let's stop them.

False arrest, AKA "SWATTING" is a large problem because it is so easy to "SWAT" someone and as you can see, it is nearly impossible to unwind the effects of being SWATTED.

As attorneys, you need to STOP supporting Ogletree Deakins here in Oregon. They are a ship of THIEVES (eg Docket 137 in 11-06248...I will not pay that as it is the result of CRIME... I will sue endlessly until they correct their damage to us all. We need to 'out' them and MAKE THEM PAY FOR WHAT THEY ARE DOING TO US. STOP CONCEALING FOR OGLETREE DEAKINS. START HEALING ME.. THEIR VICTIM.

Thank you from Andy Clark 541.510.3915



From: ANDY CLARK <mir99@comcast.net>

Sent: Wednesday, April 29, 2020 6:51 AM

To: matt.keen@ogletree.com; leahlively@dwt.com; Symes, David P.R.

<dsymes@littler.com>; christopher.mixon@ogletree.com; judge@hoganmediation.net;
osp.forensics@state.or.us; Erik.Hasselman@lanecountyor.gov;
SWS@SamuelsLaw.com; benjamin.gutman@doj.state.or.us; barry@barrydavislaw.com;
David.Campbell@lewisbrisbois.com; info@bromleynewton.com;
ellen.f.rosenblum@doj.state.or.us; sebastian.tapia@co.lane.or.us;
ben.j.miller@ci.eugene.or.us; vanessa.a.nordyke@doj.state.or.us;
boardcommunications@wellsfargo.com

Subject: Public would Panic

[EXTERNAL E-MAIL]

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Date: Wednesday, April 29, 2020 8:55:39 AM
Attachments: [theybbad.pdf](#)

From: ANDY CLARK <mir99@comcast.net>

Sent: Wednesday, April 29, 2020 6:47 AM

To: John E. Pollino <jpollino@ghrlawyers.com>; bsime@pbswlaw.com; crowley@seyfarth.com; djacobs@luvaascobb.com; hgo@eugene-or.gov; Jessica.Spooner@doj.state.or.us; sebastian.tapia@co.lane.or.us; tspooner@smapc.com; ahollister@osbar.org; nchourey@osbar.org; pamala.darnell@co.lane.or.us; Jared.Hager@usdoj.gov; pamala.holsinger@usdoj.gov; bill.williams@usdoj.gov

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Thank you from Andy Clark 541.510.3915

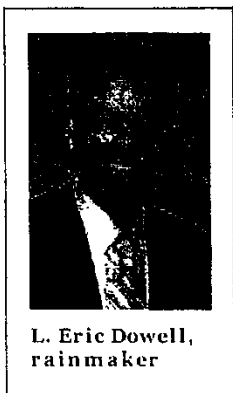
10/18/13

Phoenix - News - Valley Fever - Print Version

Sheriff Joe Arpaio's Favorite Law Firm, Ogletree Deakins, Cost Taxpayers \$2.4 Million -- in Just Two Years

By Sarah Fenske

Published Wed., May 26 2010 at 8:00 AM



The battle for control of Maricopa County -- pitting Sheriff Joe Arpaio and County Attorney Andrew Thomas against the Board of Supervisors, judges, and county administrators -- has been costly to both taxpayers and the parties involved.

But it's been a major boon to one local law firm.

Ogletree Deakins, a relatively obscure firm specializing in employment law, became Arpaio and Thomas' go-to legal counsel just as the disputes were heating up. And, according to public records obtained by *New Times*, the firm has billed the county for a staggering \$2.49 million since January 2009.

Most of the work had little to do with employment law -- and most of the firm's representation has been unsuccessful, legally speaking.

Ogletree Deakins has fought for the sheriff's right to take over the county's computer system. They tried to argue that the supervisors didn't have the right to sweep money from funds controlled by Thomas and Arpaio. They're currently pressing Arpaio's assertion that he shouldn't have to open his books to county auditors.

And, according to the billing records we looked at, it appears likely that Ogletree lawyers may have even been behind one of Arpaio/Thomas' biggest embarrassments: the criminal charges they filed against the county's presiding criminal court judge, Gary Donahoe.

As *New Times* first reported earlier this month, prosecutors filed criminal charges against Donahoe without bothering to seek a grand jury indictment. They simply filed a direct complaint, and attached a "probable cause" statement that, almost word for word, matched a complaint that the sheriff's office had filed with the Arizona Commission on Judicial Conduct one week before. That complaint, detailing a conspiracy theorist's view of Judge Donahoe's conduct, was signed by Arpaio's chief deputy, David Hendershott.

It now appears that Hendershott had some help penning the letter.

According to its billing statements, Ogletree charged the county \$27,310 for something titled "MCSO State Bar/Judicial." The first two invoices with that notation were submitted on December 1, 2009 --

So did an employment law specialist draft the document that became the basis for the criminal charges against the county's presiding criminal court judge? If nothing else, it would explain why the document drew guffaws from seasoned prosecutors. Ogletree's lawyers were likely in way over their heads. (And really, what was prosecutor Lisa Aubuchon thinking, merely regurgitating Ogletree's letter as a criminal complaint?)

Finally, Ogletree billed the county a staggering \$1.2 million for something described only as "contract compliance." County Spokeswoman Cari Gerchick told *New Times* that county administrators have no idea what that means.

We contacted L. Eric Dowell, a shareholder at Ogletree Deakins and the sheriff's lawyer of choice, to ask about the "contract compliance" payments, but we hadn't heard back by press time. We'll post an update if we get an answer.

In the mean time, looking at the wasted \$2.4 million and the unexplained \$1.2 million and the tens of thousands of dollars for failed legal adventures -- well, we never thought we'd say this, but we actually miss Dennis Wilenchik. Yes, *New Times* disagreed with Wilenchik on just about everything. But Wilenchik handled some pretty tough cases for Arpaio, not just political crap that should have never made its way to a docket.

And Wilenchik, unlike the sheriff's new \$2-million-counsel, actually knew how to win.

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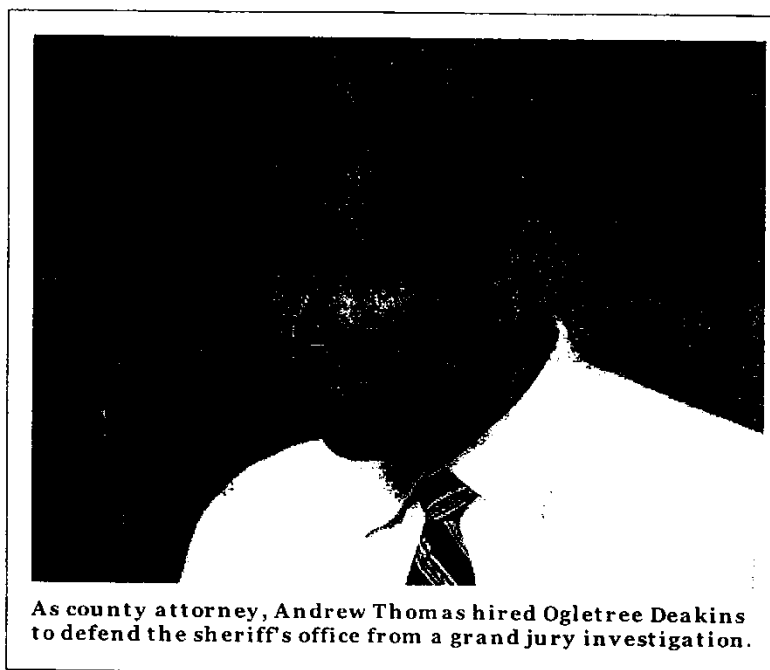
10/18/13

Phoenix - News - Valley Fever - Print Version

Andrew Thomas Hired Ogletree Deakins for Racketeering Suit, Grand Jury Investigation into Sheriff Joe Arpaio

By Sarah Fenske

Published Fri., May 28 2010 at 11:44 AM



You can file this one under "WTF??!?"

Turns out Maricopa County Sheriff Joe Arpaio's favorite law firm, which specializes in employment law, was brought in to help with both the crappy racketeering lawsuit Arpaio and then-County Attorney Andrew Thomas filed against county officials last year -- and the federal grand jury now looking into Arpaio and Thomas as well.

And the taxpayers are footing the bill for Ogletree Deakins' involvement in both cases, records show.

Here's the deal.

In December 2009, County Attorney Thomas filed a racketeering lawsuit, accusing county officials, judges, and their lawyers of being part of a broadly defined "criminal enterprise." The suit drew consternation -- and even laughter -- from experienced lawyers, and Thomas withdrew it a few

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blogs.phoenixnewtimes.com/blogs/2010/05/andrew-thomas-hired-ogletree-deakins/

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Phoenix - News - ValleyFever - Print Version

months later, without proving a single one of its allegations.

Records obtained by *New Times* on Wednesday show that Thomas's office had a bit of help with the suit.

On December 21, three weeks after the suit was filed, Thomas hired the law firm Ogletree Deakins to assist with the lawsuit, records show.

And while that firm had become the favored private counselors of both Thomas and Sheriff Joe Arpaio, it specializes in employment law -- not racketeering statutes, which are incredibly complex.

The firm assisted with the racketeering suit from December 21 to January 6, according to records. That period coincides with a period of intense activity on the matter in question. After Thomas filed the initial lawsuit December 1, defense attorneys for the dozen named county officials quickly struck back with detailed -- and compelling -- arguments for its dismissal. Thomas' office ultimately filed an amended complaint January 14, attempting to restate its original claims and buy time.

But even that didn't do much to help the county attorney's case. Judge Murray Snow rejected the amended complaint, saying Thomas' office had missed a procedural deadline. Forced to defend the initial claim, and facing a strong possibility of outright dismissal, Thomas withdrew the suit.

In its letter confirming Ogletree's hire, the county attorney's office asked the firm to report to Rachel Alexander, the deputy county attorney assigned to the case after the initial filing. Which leaves us wondering: Is Alexander to blame for missing the deadline for the amended complaint? Or was it the fault of the handsomely paid lawyers at Ogletree?

One thing is clear: The firm wasn't taken off the case due to any unhappiness on the county attorney's part.

Just two days after the firm was taken off the RICO case, Thomas' office assigned it to help the sheriff's office deal with a potentially more explosive matter -- the grand jury investigation focused on Sheriff Joe Arpaio's abuse of power.

"As part of this advisory representation, your firm or any other advisory counsel you retain may be expected to accompany witnesses to the grand jury, handle requests for records, file pleadings, or participate in any other matter that represents the organizational interests of the MCSO," wrote Chief Assistant County Attorney Sally Wells.

Naturally, we find it funny that the sheriff/county attorney would retain an *employment law firm* for a criminal matter. But, more importantly, we have to wonder if the hiring was proper. After all, county policy says that the taxpayers will only hire legal counsel for employees who are witnesses to a grand jury -- not targets.

The sheriff's office is indisputably a target in this grand jury investigation.

Furthermore, in her letter, Wells told Ogletree to report to the sheriff's chief deputy, David Hendershott. Hendershott is believed to also be a person of interest or target of the investigation, not merely a "witness."

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So is the county paying for lawyers to advise Hendershott? What about Arpaio?

We simply don't know. But records show that Ogletree Deakins has been paid \$2.4 million to represent Arpaio and Thomas from January 2009 to date.

We asked the spokesman for the new county attorney, Bill Fitzgerald, about all this. We asked if County Attorney Rick Romley -- an Arpaio opponent who's now replaced Thomas -- had concerns about these contracts, which his office is tasked with supervising.

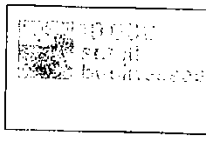

Fitzgerald said the office had no comment at this time.

A spokeswoman for the sheriff's office, Lisa Allen, didn't return our call for comment.

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10/18/13

Sheriff Joe Arpaio Loses Appeals Court Ruling Allowing False Arrest Lawsuit

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October 19, 2012

HUFF POST POLITICS

Elise Foley
elise@huffingtonpost.com

Sheriff Joe Arpaio Loses Appeals Court Ruling Allowing False Arrest Lawsuit

Posted: 08/29/2012 6:36 pm Updated: 08/29/2012 6:51 pm



Maricopa County Sheriff Joe Arpaio faces a false arrest lawsuit as a result of a federal appeals court ruling. (AP Photo/Ross D. Franklin)

Arizona Sheriff Joe Arpaio might want to get ready to spend more time in court defending himself.

The U.S. 9th Circuit Court of Appeals ruled Wednesday that two news executives for the *Phoenix New Times* can sue the Maricopa County sheriff's office for their 2007 arrests.

The men, newspaper co-owners Michael Lacey and Jim Larkin, were arrested at their homes in the middle of the night after their publication reported the sheriff's office planned to use a subpoena to figure out who was talking to journalists about Arpaio. Arpaio's allies drafted subpoenas that "demanded that the paper reveal its confidential sources as well as produce reporters' and editors' notebooks, memoranda, and documents" related to stories about Arpaio, according to the court ruling. The *New Times* refused, leading to misdemeanor charges against Lacey and Larkin of disclosing grand jury inner workings. The charges were dropped the next day.

The two executives attempted to sue Arpaio for \$15 million in 2008, alleging that the sheriff's office falsely arrested them, violated their right to due process and targeted them for selective prosecution. A lower court dismissed that lawsuit, a ruling overturned by the federal appeals court.

"Sheriff Arpaio should have known that arresting someone at his home requires a warrant, unless there are exigent circumstances," the appeals court opinion said. "We cannot fathom what exigent circumstances compelled either arrest."

Arpaio spokeswoman Lisa Allen told Bloomberg that Arpaio is unable to comment because he is in Tampa for the Republican National Convention. "Upon his return, I'm certain he will review the court's decision," she said.

New Times editor-in-chief Rick Barrs applauded the court decision, telling HuffPost that Arpaio will now "have to answer for it in court."

"What Joe Arpaio spearheaded, in cahoots with since-disbarred, ex-County Attorney Andrew Thomas, was a travesty of justice," Barrs said.

The weekly paper, part of the Village Voice network, has reported extensively on Arpaio since the mid-1990s.

Arpaio already faces a lawsuit alleging racial profiling in his department by civil rights groups. The Department of Justice sued Arpaio's office in May, also based on claims of racial profiling.

UPDATE: 6:45 p.m. -- Lacey, the newspaper co-owner, responded to the ruling with this statement:

Sheriff Joe Arpaio's arrest and jailing of journalists is part of a pattern of trying to silence critics. It is an outrageous abuse of power. But he loves the publicity, even when it backfires. Arpaio relishes law enforcement by headline. Today he rounds up Mexicans. Tomorrow's target is anybody's guess.


31

10/18/13

Stapley files a claim vs. Arpaio, Thomas, alleging false arrest

October 18, 2013 |

11:33 pm | 68°

Valley & State• Type Size: **A A A**•  Print**Stapley files a claim vs. Arpaio, Thomas, alleging false arrest**•  Most Popularby Yvonne Wingett - Mar. 20, 2010 12:00 AM
The Arizona RepublicRecommend  Be the first of your friends to recommend this.

Tweet - 0

An attorney representing Maricopa County Supervisor Don Stapley filed a notice of claim against county officials Friday.

The claim alleges false arrest and malicious prosecution, among other accusations. The claim names Sheriff Joe Arpaio, Chief Deputy Dave Hendershott and County Attorney Andrew Thomas.

A notice of claim is the first step toward filing a lawsuit against a government entity.

Stapley, who is chairman of the Board of Supervisors, referred calls to attorney Merwin Grant.

"It's a protective filing," Grant said. "We anticipate that other facts will be put forward in the near future. And so, we may amend the notice."

Stapley and his wife, Kathy, will settle for \$5 million, according to the claim. According to the document, the events over the last year and a half have caused the Stapleys humiliation, emotional distress, health issues and "loss of consortium," referring to loss of spousal relationship.

Maricopa County spokeswoman Cari Gerchick said the claim will be handled just like "any other person who would file a claim. However that impacts Mr. Stapley as chairman, we'll deal with it appropriately and ethically."

Arpaio wouldn't comment on the specifics of the claim, but allegations that the Sheriff's Office abuses its power, which are included in the claim, have become a familiar refrain, he said.

"It's like 'boots on the ground,' just another buzz word," he said. "It doesn't concern me, because I know my office runs a very professional operation."

Barnett Lotstein, a spokesman for Thomas, would not comment on the substance of the claim, but said, "Two grand juries made up of citizens of Maricopa County did return indictments finding probable cause against Mr. Stapley in the criminal matters."

He noted that Yavapai County Attorney Sheila Polk, who prosecuted the first case against Stapley and was overseeing the investigation of the second case against him, said under oath that both cases had merit.

In November 2008, a grand jury indicted Stapley on 118 counts related to his personal financial-disclosure forms. In August 2009, a judge dismissed many of the counts, and prosecutors later dismissed the rest in mid-September. Stapley thought his legal battles were over.

But three days later, deputies took Stapley into custody in the county parking garage on

www.azcentral.com/arizonarepublic/local/articles/20100320stapleyclaim0320.html

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1/2

10/18/13

Stapley files a claim vs. Arpaio, Thomas, alleging false arrest

counts of fraud and theft related to his campaign for a leadership position with the National Association of Counties.

"They put me in a patrol car," Stapley told *The Republic* last month. "(They) took me to the First Avenue Jail, booked me in, took photos, fingerprinting, the whole thing a second time, and put me in an isolation cell."

No prosecutor filed charges.

Then, last December, a grand jury indicted Stapley on 22 felony charges including theft, fraud, perjury and forgery, all largely related to his fundraising efforts for the national organization.

Last month, a judge threw out an unrelated case against fellow Supervisor Mary Rose Wilcox. Hours later, Thomas filed a motion to dismiss the Stapley indictment because of similar underlying legal problems.

Stapley told *The Republic* the legal fights have cost his family \$1.25 million. Under the statute, Stapley had to file notice of claim within 180 days of the alleged wrongful event, in this case, wrongful arrest. The deadline to file is next week.

Typically, the supervisors must approve settlement agreements.

Given Stapley's position, however, Gerchicksaid officials will take extra care to maintain neutrality: "This is a unique situation, which we have never faced before - it's unprecedented," she said.

Reporters JJ Hensley and Michael Kiefer contributed to this article.

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Ariz. County Seeks To Debar Ogletree Deakins

By Lana Birbrair

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Law360, New York (July 05, 2012, 8:51 PM ET) -- Arizona's Maricopa County has sought to prevent Ogletree Deakins Nash Smoak & Stewart PC from serving as a contractor for the county and has amended class claims that accuse the firm of 300 billing errors, including billing clients associate attorney rates for the work of recent law school graduates, the county confirmed Thursday.

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In a notice sent to Ogletree on Monday, the county informed the employment boutique that it had filed a debarment action to prohibit the firm from doing business with the county, even as a subcontractor, for three years. It was the first time in the county's history that it had moved to debar a vendor, according to the county.

Ogletree responded Thursday that it no longer wanted to do any business with the county and noted that it had already sent refund checks to the county in response to claims that it had overbilled the county by charging attorney rates for the work of law school graduates who had not yet passed the bar, including a check sent in late June for almost \$28,000.

"Ogletree made clear in October 2010 that it has no intention to do business with Maricopa County in the future," said John Doran of Sherman & Howard LLC, an attorney for the firm. "Nevertheless, Ogletree continues to look for common ground on which to resolve its long-standing issues with the county. The county has previously identified two instances where employee time was supposedly billed incorrectly, and Ogletree has issued refunds even though it disagrees with the county's position."

In its notice, Maricopa County referred to its long-running battle with Ogletree over \$1.1 million in disputed charges, during which Ogletree has allegedly refused to participate in an audit of the firm's legal services.

The county has accused the firm of listing nonattorneys in its personnel database as associates when they begin working at the firm after law school but before they have been admitted to the bar, leading to \$170,000 in charges on the services of employees who were fraudulently represented to be attorneys.

In an amended class counter-claim filed last week, Maricopa County also increased the

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number of such alleged billing errors from nearly 40 to about 300, with additional errors including billing associates at the rate of senior partners.

Maricopa County claims taxpayers spent more than \$170,000 on the services of nonlawyers who were fraudulently represented to be attorneys, \$197,000 on attorneys who were charged at higher categories than deserved and \$20,000 for librarians, office assistants and other employees whose time was added to billings in violation of the county's contract. The county says Ogletree's behavior violates its contract and constitutes fraud.

"The number of errors contained in the incomplete bills that we have received from Ogletree is rather stunning and it adds extra urgency for the need for a comprehensive audit of all of Ogletree billings," Maricopa County spokeswoman Cari Gerchick said. "In addition, the fact that Maricopa County has sent a 'notice of intent to debar' this vendor ... from doing business with the county for a period of time shows our commitment to having accountability and transparency in the procurement process."

The instant suit reasserts the county's claim that Ogletree should be subject to an extensive audit in a dispute stemming from the county's allegations that Ogletree violated both the legal services provider contract and procurement code by improperly expanding the scope of assignments and representation and overcharging for services it did not request or approve.

When the county's board of supervisors voted unanimously to terminate its legal services contract with Ogletree in September 2010, it had \$1.1 million in outstanding charges, according to the complaint.

In a series of claims and counterclaims that have traveled between state court, alternative dispute resolution and attempts at nonbinding arbitration, Ogletree allegedly sought to recover the outstanding charges while the county tried to audit the firm's legal records in an attempt to show that Ogletree had racked up \$5 million in billings while improperly subcontracting out legal work to firms that did not appear on a list of vendors the county had approved, in violation of the contract with Ogletree.

Maricopa County is represented by Julie Pace and David Selden of The Cavanagh Law Firm PA.

Ogletree is represented by John Doran of Sherman & Howard LLC.

The case is Maricopa County v. Ogletree Deakins Nash Smoak & Stewart PC, case number CV2011-002493, in the Superior Court of Arizona, Maricopa County.

--Editing by Katherine Rautenberg.

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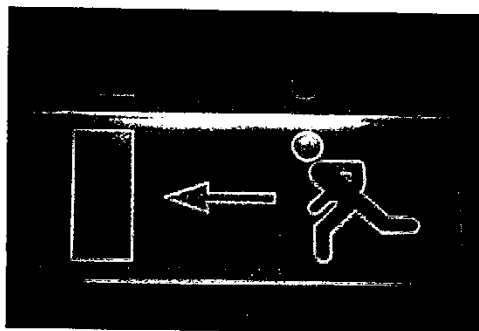
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Ogletree Deakins loses another group of lawyers

Firm has seen the departure of 12 lawyers in two weeks

BY CATHLEEN FLAHARDY
May 3, 2013 • Reprints



Anyone who didn't know any better may wonder if a mass exodus was afoot at Atlanta-based law firm Ogletree Deakins Nash Smoak & Stewart.

This week, the firm accepted the resignation of six lawyers—all of whom are expected to head over to competing labor and employment firm Littler

Mendelson. Last week, the firm lost another six lawyers. And all of them also jumped ship for Littler.

The 12-lawyer exodus is all happening in the wake of the departure of Ogletree's former vice president and shareholder Don Prophete. Amid what seems to have been some major in-house drama, Prophete tendered his resignation in March, claiming the firm had mistreated a fellow Ogletree colleague. Last week, Prophete announced he was going to Littler ... and he was taking six Ogletree lawyers with him.

One of the lawyers who left with Prophete told Thomson Reuters the weeks leading up to his resignation were "chaotic" and everyone was "waiting to see what would happen next."

Above the Law has a detailed story about the events leading up to Prophete's departure, including excerpts from his scathing resignation letter.

Ogletree Deakins Managing Shareholder Kim Ebert said the firm is disappointed the lawyers are leaving, but their departure will not impact Ogletree's commitment to its clients or its growth model, pointing out that the firm has opened two offices and added 15 lateral shareholders this year.

"While we hate to see these 12 attorneys leave, we have more than 650 lawyers who successfully practice with us in 44 offices, and our focus is on them and our outstanding clients," he says.

Ebert also said that the 12 lawyers to leave with Prophete are far fewer than the former Ogletree shareholder claimed would follow him. "Only four of the 20 lawyers in Kansas City (where Prophete was based) have chosen to join him, and those lawyers who had worked with him the longest have chosen to stay with our firm," Ebert adds.

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10/19/13

Ogletree Deakins Made 299 Billing Errors, Maricopa County Alleges; Firm Disputes Error Claims

Attorney Fees**Ogletree Deakins Made 299 Billing Errors, Maricopa County Alleges; Firm Disputes Error Claims**

Posted Jul 11, 2012 5:29 AM CDT

By Debra Cassens Weiss

Updated: Arizona's Maricopa County says it has identified 299 billing errors by its former law firm Ogletree, Deakins, Nash, Smoak and Stewart—and they may be "only the tip of the iceberg."

In a proposed second amended complaint filed on Monday, the county detailed the alleged 299 billing errors by the law firm, up from 36 errors alleged in an earlier version of the suit. The county also complains that Ogletree failed to cooperate in an audit, used subcontractor law firms that didn't conform to the county contract, and billed for unapproved services such as issuing media statements.

The largest number of alleged billing errors—227 in all—were due to Ogletree misclassifying 11 lawyers at higher experience levels than authorized by the contract, the proposed amended complaint says.

A June 2010 contract specified rates for associates, senior associates, partners and senior partners, and set the minimum years of experience necessary for each category, the county says. Permitted rates ranged from \$125 an hour for associates with a minimum of one year of experience to \$250 an hour for senior partners with at least 12 years of experience. A prior contract allowed the law firm to charge \$275 an hour for all attorney services.

In some instances, Ogletree billed associates as partners and even senior partners, the proposed complaint says. The mistakes were "so extensive, so frequent, and so systemic that the conclusion is inescapable that when the county implemented lower billing rates for attorneys on June 1, 2010, Ogletree's Phoenix and national management made the decision to overcharge the county and thereby to lessen the effects upon Ogletree of the county's new, reduced billing rate structure," the county alleges.

The proposed complaint claims breach of contract, breach of fiduciary duty and fraud. It seeks class action status based on the claim that Ogletree improperly bills other public sector clients by classifying law graduates as associates even though they have not yet passed the bar.

The court document alleges 37 instances of billing two nonattorney law grads as associates, despite a contract ban on such a practice. The suit also claims 35 instances of billing for 11 specialists such as librarians and information technology specialists. The firm is allowed to bill only for lawyers and paralegals, the county says.

The county claims the errors involve excessive charges of more than \$300,000. Ogletree, on the other hand, claims the county owes nearly \$1 million dollars in unpaid legal bills.

So far, Ogletree has agreed to refund \$78,000 for billing errors, according to Maricopa County communications director Cari Gerchick. The county is seeking to debar the firm from contracting work with the county for three years.

A lawyer representing Ogletree in the litigation, John Doran of Sherman & Howard in Phoenix, says the dispute is over the contract interpretation. "There are not 299 billing errors or anything close to that number," he tells the ABA Journal in an email.

Doran says there were a few instances where it was debatable whether Ogletree could bill law grads as associates under the contract, and Ogletree reimbursed the county for those time entries. "The vast majority of the remaining time entries alluded to by the county consist of contract interpretation questions, not demonstrated billing errors," Doran says.

He points to one example involving billing entries for an of counsel lawyer who had enough years of experience to qualify for the billing rate charged. "But the county is improperly and semantically focusing on his title as 'of counsel' rather than his years of service to argue that Ogletree could not bill his time at all, let alone bill at the contractual rate," Doran says. "Virtually all of the challenged time entries are of this ilk. It is also important to note that all of the work Ogletree billed for was performed at the highest level, and nobody has ever suggested otherwise. We would also be remiss were we not to mention the fact that the county has not even paid Ogletree for virtually all of these time entries, so their claim is difficult to understand in any event."

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10/19/13

Ogletree Deakins Sues Client Entity, Maricopa County, for Defamation

Ogletree Deakins Sues Client Entity, Maricopa County, for DefamationBy Martha Neil
Sep 22, 2011, 07:24 pm CDT

A well-known labor and employment law firm has filed suit against Maricopa County, Ariz., seeking damages for claimed defamatory statements made in a letter from county officials terminating its services.

It "contained false and defamatory statements including, among other things, accusing Ogletree of unethical and possibly criminal conduct and of acting in an unreasonable manner," contends Ogletree Deakins Nash Smoak & Stewart in the complaint (PDF) the law firm filed yesterday in Maricopa County District Court.

The suit also alleges, on information and belief, that the county republished the termination letter to a broader circle than those who needed to see it and "intentionally leak[ed] misstatements and half-truths to the media for the purpose of impugning the integrity and business practices of Ogletree."

Among other relief, the complaint seeks damages for alleged defamation per se which, if proven, would entitle the law firm to compensation for injury to its professional reputation without showing actual out-of-pocket loss in the same amount.

As an Arizona Republic article notes, the lawsuit follows a hard-fought political battle between county's board of supervisors and the county sheriff and county attorney's office.

Former County Attorney Andrew Thomas is currently facing a legal ethics trial, and ethics complaints have also been made against others, including a couple of Ogletree lawyers.

The county, which has been arguing with the law firm about Ogletree's unpaid bills, declined the Republic's request for comment on the defamation suit.

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MICHAEL K. JEANES
Clerk of the Superior Court
By Kristy Kee, Deputy
Date 09/21/2011 Time 16:28:08
Description Amount
CASE# CV2011-017664
CIVIL NEW COMPLAINT 301.00
TOTAL AMOUNT 301.00
Receipt# 21651368

EXAMPLE OF
LEGAL BATTERY
AGAINST ANY & ALL

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C., a South
Carolina professional corporation,

Plaintiff,

Case No. CV2011-017664

COMPLAINT

v.

MARICOPA COUNTY, a political
subdivision of the State of Arizona,

Defendant.

THE PEOPLE
OF
MARICOPA COUNTY AZ

Plaintiff Ogletree, Deakins, Nash, Smoak & Stewart, P.C. ("Ogletree"), a South
Carolina professional corporation, by and through its undersigned counsel, respectfully
submits its Complaint and affirmatively alleges as follows:

1. Ogletree is a national labor and employment law firm with an office
located in and doing business in Maricopa County, Arizona.
2. Defendant Maricopa County (the "County") is a political subdivision of
the State of Arizona.
3. This Court has jurisdiction pursuant to A.R.S. § 12-321 and venue is
proper in this Court.
4. Prior to September 2010, Ogletree was an approved vendor on the
County's list of outside counsel and was awarded several contracts for legal services.

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1 5. Pursuant to a letter dated September 22, 2010, and signed by David R.
2 Smith, County Manager, (the "Termination Letter") the County terminated Ogletree and
3 removed Ogletree from the County's approved list of outside counsel.

4 6. David R. Smith was acting in his official capacity, for and on behalf of the
5 County when he drafted and published the Termination Letter.

6 7. The Termination Letter contained false and defamatory statements
7 including, among other things, accusing Ogletree of unethical and possibly criminal
8 conduct and of acting in an unreasonable manner.

9 8. The defamatory statements contained in the Termination Letter are false.

10 9. Upon information and belief, the County made unprivileged publications
11 and republications of the Termination Letter and the defamatory statements therein,
12 including causing the defamatory statements to be published by reporters and
13 intentionally leaking misstatements and half-truths to the media for the purpose of
14 impugning the integrity and business practices of Ogletree.

15 10. The County, through its agents David Smith, Julie Pace, David Selden,
16 and Cari Gerchick, repeatedly published the defamatory statements beginning in
17 January 2011, and continuing to the present, and said publications were not privileged
18 in any manner.

19 11. Ogletree has met the jurisdictional prerequisites for suit with respect to the
20 defamatory conduct alleged herein by filing a timely Notice of Claim in accordance
21 with A.R.S. § 12-821.01(A).

22 12. At the time the defamatory statements were published, the County knew
23 the defamatory statements were false.

24 13. At the time the defamatory statements were published, the County acted
25 with reckless disregard for the strong likelihood that the statements were false.

26 14. The defamatory statements were part of a baseless campaign to smear the
27 reputation of Ogletree, one of the nation's largest and most respected labor and
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1 employment law firms.

2 15. The County published, or caused to be published, the defamatory
3 statements with the intent to damage Ogletree's reputation and acted with actual malice
4 when publishing the defamatory statements.

5 16. The defamatory statements tended to impeach the honesty, integrity and
6 reputation of Ogletree and injured Ogletree in its trade and/or profession and are
7 defamatory *per se*.

8 17. As a direct and proximate result of the County's acts, Ogletree has
9 suffered, and will continue to suffer, damages in an amount to be proven at trial.

10 18. The County's conduct was intentional and was outrageous, such that a
11 trier of fact can infer the intent to injure Ogletree. Therefore, Ogletree is entitled to
12 recover punitive damages in an amount to be proven at trial.

13 19. In light of the foregoing, Defendants should be enjoined from making
14 additional defamatory statements regarding Ogletree and/or from further circulating the
15 defamatory statements.

16 WHEREFORE, Ogletree prays that this Court enter judgment as follows:

17 a. Granting preliminary injunctive relief ordering that the County
18 immediately cease and desist publishing the defamatory statements or similar or other
19 defamatory statements;

20 b. Awarding Ogletree, Deakins, Nash, Smoak & Stewart, P.C. compensatory
21 damages in an amount to be proven at trial, plus post-judgment interest thereon, at the
22 legal rate, until paid in full;

23 c. Awarding Ogletree, Deakins, Nash, Smoak & Stewart, P.C. punitive
24 damages in an amount necessary to deter the County and others from engaging in such
25 tortious conduct, plus post-judgment interest thereon, at the legal rate, until paid in full;

26 d. Awarding Ogletree, Deakins, Nash, Smoak & Stewart, P.C. its taxable
27 costs pursuant to A.R.S. § 12-341, plus interest thereon, at the legal rate, until paid in
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1 full; and

2 e. Awarding Ogletree, Deakins, Nash, Smoak & Stewart, P.C. such other
3 and further relief as the Court deems just and proper.
4

5 DATED this 21st day of September, 2011

6 SHERMAN & HOWARD L.L.C.

7
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